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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1894.

No. ~~877~~. 208

THE UNITED STATES, APPELLANT,

vs.

THE CITY OF SANTA FE.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

FILED DECEMBER 23, 1894.

(15761.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1894.

No. 877.

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1 UNITED STATES OF AMERICA,
Territory of New Mexico, ss:

Be it remembered, that heretofore, to wit, on the 11th day of February, A. D. 1893, the city of Santa Fe, by its attorney, filed in the office of the clerk of the Court of Private Land Claims, in and for the Territory of New Mexico, a petition in which said city of Santa Fe was plaintiff, and the United States of America and The Board of County Commissioners of the County of Santa Fe were defendants; which said petition is in words and figures following, to wit:

2 In the Court of Private Land Claims of the United States of America.

TERRITORY OF NEW MEXICO,
County of Santa Fe, ss:

THE CITY OF SANTA FE, PETITIONER,
vs.
THE UNITED STATES OF AMERICA AND THE Board of County Commissioners of the County of Santa Fe, respondents.

To the Honorable Joseph R. Reed, Chief Justice of the Court of Private Land Claims of the United States:

Your petitioner, the city of Santa Fe, hereby appearing in the said Court of Private Land Claims of the United States, under and in conformity with an act of Congress approved March 3rd, 1891, entitled "An act to establish a Court of Private Land Claims, and to provide for the settlement of private land claims in certain States and Territories," and claiming the benefits of the said act as claimant of the private land claim hereinafter described, respectfully shows unto the said court as follows:

Your petitioner is a municipal corporation, created, organized, and existing under and in conformity with the laws of the Territory of New Mexico, and is the successor of the ancient Spanish city formerly known as La Villa Real de San Francisco de Santa Fe, and popularly called, from time immemorial, La Villa de Santa Fe, and as such municipal corporation your petitioner has the same local situs as had the said ancient city, and also jurisdiction over the same territory, except so far as, under the laws of the Territory of New Mexico, the respondent The Board of County Commissioners of the County of Santa Fe may have any lawful claim or authority in the premises.

3 Prior to the Pueblo insurrection, in the year sixteen hundred and eighty, the said Villa Real de San Francisco de Santa Fe, or La Villa de Santa Fe, had received from the King of Spain a municipal or pueblo grant, conceding to and vesting in the said Spanish city or villa a certain tract of land containing four square Spanish leagues, whereof the central point is the same point which is now the central point of the plaza of the city of Santa Fe. The said plaza is the same public place which was the plaza or open square of the said ancient Spanish city, and the

said grant of land is more particularly bounded and described as follows, to wit: Beginning at a point distant one Spanish league due north from the central point of the plaza of Santa Fe, and running thence one Spanish league due east to the northeast corner of the said grant, thence two Spanish leagues due south to the southeast corner of the said grant; thence two Spanish leagues due west to the southwest corner of the said grant; thence two Spanish leagues due north to the northwest corner of the said grant, and thence one Spanish league due east to the said point of the beginning.

Although by authority of the King of Spain and of the said Spanish municipality some parts of the lands embraced within the boundaries of the said municipal grant have been granted and assigned to divers grantees and assignees in severalty, the said grantees and assignees are not claimants of such parts adverse to your petitioner, but in priority with the said municipal grant title, and your petitioner makes no claim to the parts of the said municipal grant heretofore conveyed in severalty by the said King or by the said Spanish municipality, and in praying confirmation of the said municipal grant your petitioner makes this petition as well in behalf of such grantees and assignees in severalty as in its own behalf.

The said municipal grant was made by the King of Spain to the said Spanish municipality, and juridical possession of the said granted land was duly delivered to the said municipality by a judicial officer named and commissioned to that end, in and by the terms of the said grant, and after the execution of the said act of juridical possession, the original grant and act of possession were duly approved under the authority of the said King, and placed among the royal archives kept in the ancient city or villa of Santa Fe, and thereupon a testimonio of the said grant and
4 act of juridical possession was duly delivered under the authority of the said King of the said municipality.

During the said insurrection all the archives of the Spanish Government which had theretofore been in the custody of the governor and other royal officers of New Mexico, including all the record evidence of the said municipal grant, were utterly destroyed by the hostile Indians engaged in the said insurrection and at the same time the testimonio of the said grant, theretofore held by and in the custody of the said Spanish municipality, was also destroyed, and by the same means, and your petitioner has not in its possession, custody, power, or control any copy of the said original muniments of the said grant, title, or any part of the said muniments.

Your petitioner is therefore unable to state more particularly the date, form, or other particulars of the said grant and other muniments of title, because of their destruction in manner aforesaid.

Prior to the said insurrection, and at the date of the said grant, and at all times thereafter during Spanish sovereignty over New Mexico, the said city or villa contained a population greatly exceeding thirty-five families in number, and there was not any city, town, or village of Spaniards situate within five leagues of the said city or villa, and the said grant to the said city or villa was never in any manner prejudicial to any pueblo of Indians or to any private persons.

The said city or villa has been continuously for upwards of three hundred years last past, first under Spain, next under Mexico, and finally

under the United States, the seat of government of New Mexico, and during that period of time and by all of the said powers, when respectively sovereign in New Mexico, it has been recognized as a city and has been with exceeding frequency referred to and described as an existing city in official orders, decrees, statutes, and other public proceedings; and hundreds of granting decrees and other official orders made by Spanish governors
5 and other Spanish authorities during the period of Spanish sovereignty and now existing in the archives of the United States in the present city of Santa Fe aforesaid purport to be dated at the said La Villa de Santa Fe.

During the period of Spanish sovereignty and that of Mexican sovereignty, aforesaid, the said city or villa had a municipal government, with a municipal council or a yuntamiento and all other appropriate municipal officials, provided and established by law.

The said land claim now presented to this court by your petitioner was heretofore examined by Hon. Jarves K. Proudfit, as surveyor-general of New Mexico, and by him approved and recommended to Congress for confirmation by his report dated April 13th, 1874, but Congress has never acted definitely upon the said claim.

The said grant is absolute and perfect as a municipal grant to the use of the inhabitants of the said Spanish city or villa and their successors, and to the use of the assignees of the said Spanish city or villa and of its municipal successor, your petitioner.

The lands embraced within the said grant have been surveyed by and under the direction of the surveyor-general of New Mexico, and as surveyed have been duly platted on the public maps published under the authority of the commissioner of the general land office, and a map of the said grant so surveyed, and the same showing the lands claimed herein by your petitioner, is herewith filed as part of this petition.

Your petitioner prays that the validity of its claim to the said four-square Spanish leagues of land may be inquired into and decided by this court; and that by its decree in that behalf the said grant may be established and confirmed to your petitioner in trust for the use and benefit of the inhabitants thereof and of such grantees and assignees of parts of the said lands as have derived or may hereafter acquire by due assign-
6 ments, allotments, and titles in severalty to such parts respectively; and that your petitioner may have such other and further relief in the premises as may be just and equitable.

Dated January 31st, 1893.

THE CITY OF SANTA FE.
By JOHN P. VICTORY,
City Attorney.

JOHN H. KNAEBEL, Esq.,
Of counsel.

7 And be it further remembered that afterwards, to wit: On the 11th day of February A. D. 1894, a summons was issued from the

office of said clerk, in the said cause, which said summons is in words and figures following, to wit:

8 [Summons.—U. S. Court of Private Land Claims.]

In the U. S. Court of Private Land Claims.

UNITED STATES OF AMERICA,
District of New Mexico, ss:

THE CITY OF SANTA FE, PLAINTIFF,
versus
THE UNITED STATES AND THE BOARD of County Commissioners of Santa Fe County, defendant.

Petition filed in the clerk's office, this 11th day of February A. D. 1893.

The President of the United States of America, to Matt. G. Reynolds, Esq., U. S. Attorney before the Court of Private Land Claims, greeting:

You, and each of you, are hereby notified that an action has been brought in said court, by the city of Santa Fe, plaintiff, against you as defendant, under the provisions of the act of the Congress of the United States, entitled "An act to establish a Court of Private Land Claims, and to provide for the settlement of private land claims in certain States and Territories," approved March 3d, 1891, and that a copy of the petition of said plaintiff is herewith attached and served upon you, and that you are required to appear and plead, demur or answer, to the petition filed in said action in said court within thirty days from the date of service of this summons upon you; and if you fail so to do, the said plaintiff will take default according to the provisions of the aforesaid act.

Witness, the Honorable Joseph R. Reed, chief justice of the Court of Private Land Claims, and the seal of the said court at the city of Santa Fe, in said district, this 11' day of February A. D. 1893, and of the independence of the United States the 117' year.

[SEAL.] JAMES H. REEDER,
Clerk.

By IRENEO L. CHAVES,
Deputy Clerk.

9 And afterwards to wit: On the 15th day of February, A. D. 1893, the summons issued on the 11th day of February, 1893, was returned to said clerk's office, with the return of the marshal endorsed thereon; which said return is in words and figures as follows, to wit:

10 *Proof of service.*

UNITED STATES OF AMERICA,
District of New Mexico, ss:

MARCH 15TH, A. D. 1893.

I hereby certify that I received the within writ on the 15' day of March, A. D. 1893, and that I have personally served the same upon the said defendant by delivering to Matt. G. Reynolds, and each of them personally, a true copy of the within writ, at the time and place as follows: As to , at Santa Fe, county of Santa Fe, on the 15' day of March, A. D. 189 . As to directed.

This writ, therefore, returned served, as the law directs, this 15th day of March, A. D. 1893.

Marshal's fees.

Service defendants, at $2, $. Mileage miles, at 6 c., going only, . Total, $. Paid by .

TRINIDAD ROMERO,
Marshal.
By JOSÉ B. ORTIZ,
Deputy Marshal.

11 And be it further remembered that afterwards, to wit: On the 27th day of March, A. D. 1893, a summons was issued out of the office of said clerk in the said cause, which said summons is in words and figures following, to wit:

12 [Summons.—U. S. Court of Private Land Claims.]

In the U. S. Court of Private Land Claims.

UNITED STATES OF AMERICA,
District of New Mexico, ss:

THE CITY OF SANTA FE, PLAINTIFF,
versus
THE UNITED STATES AND THE BOARD of County Commissioners of Santa Fe County, defendant.

Petition filed in the clerk's office this 11th day of February, A. D. 1893.

The President of the United States of America to the Board of County Commissioners of Santa Fe County, greeting:

You, and each of you, are hereby notified that an action has been brought in said court by the city of Santa Fe, plaintiff, against you as defendant', under the provisions of the act of the Congress of the United States, entitled "An act to establish a Court of Private Land Claims, and to provide for the settlement of private land claims in certain States and Territories," approved March 3d, 1891, and that a copy of the petition of said plaintiff is herewith attached and served upon you, and that you are required to appear and plead, demur, or answer to the petition filed in said action in said court within thirty days from the date of service of this summons upon you; and if you fail so to do the said plaintiff will take default according to the provisions of the aforesaid act.

Witness, the Honorable Joseph R. Reed, chief justice of the Court of Private Land Claims, and the seal of the said court, at the city of Santa Fe, in said district, this 27th day of March, A. D. 1894, and of the Independence of the United States the 117 year.

[SEAL.]

JAMES H. REEDER,
Clerk.
By IRENEO L. CHAVES,
Deputy Clerk.

Proof of service.

UNITED STATES OF AMERICA,
District of New Mexico, ss:

MARCH 27TH, A. D. 1893.

I hereby certify that I received the within writ on the day of March, A. D. 1893, and that I have personally served the same upon the said defendant, Charles Dudron, by delivering to him and each of them personally a true copy of the within writ, at the time and place as follows: As to at Santa Fe, county of Santa Fe, on the 27th day of March, A. D. 1893. As to .

This writ, therefore, returned served, as the law directs, this 27th day of March, A. D. 1893.

Marshal's fees.

Service defendants, at $2, $. Mileage, miles, at 6c. going only, . Total, $. Paid by .

TRINIDAD ROMERO,
Marshal.

By JOSÉ B. ORTEZ,
Deputy Marshal.

(Indorsed:) Gen. No. 80. U. S. Court of Private Land Claims, district of New Mexico. The city of Santa Fe, plaintiff, versus The United States and the Board of Commissioners of Santa Fe County, defendant'. Summons. Filed this 10th day of April, A. D. 1893. James H. Reeder, clerk. By Ireneo L. Chaves, deputy clerk. of , attorney for plaintiff.

13 And afterwards, to-wit, on said 27th day of March, 1893, said summons was returned to said clerk's office with the return of the marshal endorsed thereon, which said return is in words and figures as follows, to wit:

14 *Proof of service.*

UNITED STATES OF AMERICA,
District of New Mexico, ss:

MARCH 27TH, 1893.

I hereby certify that I received the within writ on the day of March, A. D. 1893, and that I have personally served the same upon the said defendant, Charles Dudron, by delivering to him and each of them personally a true copy of the within writ, at the time and place as follows: As to at Santa Fe, county of Santa Fe, on the 27th day of March, A. D. 1893. As to .

This writ, therefore, returned served, as the law directs, this 27th day of March, A. D. 1893.

Marshal's fees.

Service going only, defendants, at $2, $. Mileage, miles, at 6c. . Total, $. Paid by .

, *Marshal.*

By , *Deputy Marshal.*

15 And be it further remembered that afterwards, to wit, on the 9th day of April, A. D. 1894, the same being the 1st day of the April term, A. D. 1894, the following proceedings were had in the same cause, to wit:

CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } City of Santa Fe, Gt. No. 80.

In the above-entitled cause T. B. Catron, esq., counsel for petitioners, asked leave to file new petition, and case set for trial April 12, 1894.

16 And be it further remembered that afterwards, to wit, on the 21st day of November, A. D. 1894, a demurrer was filed in the said cause in the office of the said clerk, which said demurrer is in words and figures following, to wit:

17 In the Court of Private Land Claims, Santa Fe district.

THE CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT.

Demurrer.

Comes now the United States and demurs to the petition in the above-entitled cause, and for reasons assigns the following:

1. That the petition does not state facts sufficient to constitute a cause of action against the United States.

2. That the said petition fails to allege whether or not there are any adverse claimants or possessors to any portion of the land lying within the outboundaries of the same.

3. That the United States is informed that there are a large number of persons claiming adversely under various grants made by Spain, and that there are a large number of claimants and adverse possessors under the public-land laws of the United States, and it therefore pleads a defect of parties defendant.

Respectfully submitted.

MATT. G. REYNOLDS,
U. S. Attorney.

18 And be it further remembered that afterwards, to wit, on the 12th day of April, A. D. 1894, the same being the 4th day of the

April term, A. D. 1894, the following further proceedings were had in the said cause, to wit:

CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } City of Santa Fe, Gt. No. 80.

The above-entitled cause having been called for hearing, on motion of C. A. Spies, esq., attorney for plaintiffs, the same was continued and set for trial April 21.

19 And be it further remembered that afterwards, to wit, on the 13th day of April, A. D. 1894, the same being the 5th day of the April term, A. D. 1894, the following further proceedings were had in the said cause, to wit:

CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } No. 80.

Come now the Santa Fe Progress and Improvement Co., by Charles H. Gildersleeve, and enters it' appearance in the above-entitled cause, and joins with the plaintiff therein in the prosecution of said claim, and adopts the allegations stated and contained in its said petition.

20 And be it further remembered that afterwards, to wit, on the 17th day of April, A. D. 1894, the appearance of M. L. de Ortiz was filed in the said cause in the office of said clerk, which said appearance is in the words and figures following, to wit:

21 In the United States Court of Private Land Claims sitting in and for the Territory of New Mexico.

THE CITY OF SANTA FE
vs.
THE UNITED STATES ET AL. } No. 80.

Now comes Magdalena L. de Ortiz, who has a claim for a private land grant filed in this court adverse to the above-named plaintiff herein, for the "Roque Lobato" land grant, number 180, and hereby enters her appearance, by her solicitor, in said cause.

MAGDALENA L. DE ORTIZ.
By N. B. LAUGHLIN,
Attorney for Plaintiff.

22 And be it further remembered that afterwards, to wit, on the 17th day of April, A. D. 1894, an appearance by 16 adverse defendants was filed in the said cause, in the office of said clerk; which said appearance is in the words and figures following, to wit:

In the United States Court of Private Land Claims, sitting in and for the Territory of New Mexico.

THE CITY OF SANTA FE
vs.
THE UNITED STATES ET AL. } No. 80.

Now come the following-named defendants, viz: Louise J. Purdy et al., Marcos Valdez et al., M. J. Nagel et al., J. A. Romero et al., Jose M.

Lobato, Juan de Archuleta, Albino Dominguez et al., Jacob Gold et al., Juan de Lucero et al., Vicente Velarde et al., Jose Antonio Rodriguez et al., J. A. Romero et al., Esquipula Flores et al., Refugio Aguilar et al., Juan de Dios Tapia et al., and Refugio Aguilar et al., who have claims in this court adverse to the above-named plaintiff herein, and hereby enter their appearance by their solicitor in said above cause.

JAMES H. PURDY,
Solicitor.

23 And be it further remembered that afterwards, to wit, on the 18th day of April, A. D. 1894, an amended petition was filed in said cause in the office of said clerk; which said amended petition is in the words and figures following, to wit:

24 In the Court of Private Land Claims of the United States of America, sitting in and for the Territory of New Mexico.

THE CITY OF SANTA FE,
vs.
THE UNITED STATES OF AMERICA, FRANCISCO Lujan, Juan de Dios Tapia, Kate McKenzie Irvin, Magdalena L. de Ortiz, M. J. Nagel, Rosario Carkins, Abraham Gold, Jacob Gold, Louise J. Purdy, Marcos Valdez, Juan B. Lucero, Refugio Aguilar, J. A. Romero, Juan de Archuleta, Jose M. Lobato, Esquipula Flores, Vicente Velarde, Jose Antonio Rodrigues, and J. A. Romero, residents of the county of Santa Fe, in said Territory of New Mexico. } No. 80.

To the Honorable Joseph Reed, Chief Justice of said Court:

Your petitioner, the city of Santa Fe, by leave of the court heretofore granted now appears and files its amended petition in the above entitled cause, and shows unto the said court as follows:

That your petitioner is a municipal corporation created, organized, and existing under and in conformity with the laws of the Territory of New Mexico, and is the successor of the ancient Spanish town formerly known as La Villa Real de San Francisco de Santa Fe, or San Francisco de Assis de la Santa Fe, and popularly called from time immemorial La Villa Real de Santa Fe, and as such municipal corporation your petitioner has the same local situs as had the said ancient city and jurisdiction over the same territory.

Your petitioner further represents that prior to the Pueblo insurrection in the year 1680, the said Villa Real de San Francisco de Santa Fe, or San Francisco de Assis de la Santa Fe, or La Villa de Santa Fe, was entitled to and had, under the laws of the Kingdom of Spain in
25 force in this Territory at that time, a municipal or pueblo grant conceding to and vesting in the said Spanish town or villa a certain tract of land containing four square Spanish leagues, whereof the central point is the same which is now the central point of the plaza of your petitioner, it being the same public plaza which was the plaza or open square of the said ancient town and villa. And the said grant of land is

more particularly bounded and described as follows, to wit: Beginning at a point distant one Spanish league due north from the center of the plaza of the city of Santa Fe and running thence one Spanish league due east to the northeast corner of said grant, thence two Spanish leagues due south to the southeast corner of said grant, thence two Spanish leagues due west to the *the* southwest corner of said grant, thence two Spanish leagues due north to the northwest corner of said grant, and thence one Spanish league due east to the said point of beginning.

That during the said insurrection of the Pueblo Indians in the year 1680 all the archives of the Spanish Government which had theretofore been in the custody of the governor and other royal officers of New Mexico at said town, or Villa de Santa Fe, including all the muniments of title of said municipal grant, if any such existed, were utterly destroyed by the hostile Indians engaged in such insurrection, and for this reason your petitioner has not in its custody, power, or control any of said original muniments of said grant title nor any copy thereof, if any such ever existed. Your petitioners are, therefore, unable to state more particularly the date, form, or other particulars of said grant and other muniments of title.

Your petitioner further shows that prior to said insurrection and
26 destruction of the archives in the year 1680, and at the date of the said grant and at all times thereafter during Spanish sovereignty over New Mexico, the said town or villa contained a population greatly exceeding thirty-five families in number, and that there was not any city, town, or village of Spaniards situate within five leagues of said town or villa; and that the said grant to said town or villa de Santa Fe was never in any manner prejudicial to any pueblo of Indians or to any private person.

That the said town or villa of Santa Fe has been continuously for nearly three hundred years last past, under the Governments of Spain, of Mexico, and of the United States, the seat of government of New Mexico, and during all that period of time, and by all of said Governments, it has been recognized as the capital city, and always referred to and described as an existing city in official orders, decrees, statutes, and other public proceedings; and many granting decrees and other official orders made by Spanish governors and other Spanish authorities during the period of Spanish sovereignty and now existing in the archives of the United States and of the Territory of New Mexico, in the present city of Santa Fe, are dated at said Villa Real de Santa Fe, copies and translations of some of which official papers, documents, and archives are herewith filed as exhibits, marked from numbers 1 to .

That during the whole period of Spanish sovereignty and of Mexican sovereignty the said town or villa had a municipal government with a municipal council or ayuntamiento and all other appropriate municipal officials provided and established by law.

27 Your petitioner further shows that this claim now presented to this court was heretofore presented and examined by James K. Proudfit, the surveyor-general of New Mexico, and by him approved and recommended to Congress for confirmation by his report, dated April 13, 1874, as reported number 88 of the files of the surveyor-general's office. which is here referred to, but that Congress has never acted upon such report and recommendation.

And your petitioner further shows that the said grant is absolute and perfect as a municipal grant under the laws, usages, and customs of the Kingdom of Spain to the use of the inhabitants of the said Spanish town or villa and their successors and to the use of the assignees of the said Spanish town or villa and its municipal successor, your petitioner. And that the said grant was so complete at and long before the treaty of Guadalupe Hidalgo and the transfer of sovereignty from the Mexican nation to the United States.

And your petitioner further shows that within the boundaries above mentioned and claimed there are now living about seven thousand people and about fifteen hundred heads of families, nearly all of whom own, occupy, and have improved lands which they claim to hold under the said grant to the villa de Santa Fe, and that there is erected thereon buildings and improvements in public and private ownership claiming under said grant to the value of several million dollars, and that none of said claimants and occupants are in any sense adverse claimants to your petitioner.

And your petitioner further shows that there are claimed to be certain private land grants to individuals named as defendants in this pro-
28 ceeding, of tracts of land within the exterior line of the said four square leagues granted to your petitioner as aforesaid. But your petitioner avers that if any such exist each and all of them are junior in date, subordinate, and subject to the said municipal grant to your petitioners' predecessor as a town and villa, and whether the said private land grants are claimed adversely to your petitioner or not, your petitioner is not advised, but it states that all of said private land grants have been filed before this court for adjudication and have already been set for hearing in this court for the same date as this case, and that all of said claimants have subjected themselves to this court with their alleged private land grants for its determination and decision, when the matter of their interests as against those of your petitioner can be fully and finally determined.

Your petitioner further shows that the lands embraced within the said municipal grant to the town or villa de Santa Fe for four square leagues have been surveyed by and under the direction of the surveyor-general of New Mexico and duly platted on the public maps, published under the authority of the Commissioner of the General Land Office, a map of the same as so surveyed showing the lands claimed by your petitioner is herewith filed as an exhibit and made a part of this petition.

Your petitioner therefore prays that the validity of its claim to the said four square Spanish leagues of land as hereinbefore described may be inquired into and decided by this court, and that by its decree in that behalf the said municipal grant may be established and confirmed to your petitioner as the successor in title, interest, and office of the said ancient town or villa of Santa Fe, in trust for the use and benefit of all the
29 inhabitants and occupants thereof; and for such other relief in the premises as to the court may seem equitable and just.

And your petitioners will ever pray.

C. H. GILDERSLEEVE,
EDWARD L. BARTLETT,
Solicitors for the Petitioner, the City of Santa Fe.
C. A. SPIESS,
City Atty.

We, the undersigned, hereby waive service in the above-entitled cause and enter our appearance for the above-named defendants therein.

JAMES H. PURDY,
Atty. for named Dfdts., except the U. S.

30 And be it further remembered that afterwards, to wit, on the 21st day of April, A. D. 1894, an answer by the United States was filed in the said cause, in the office of said clerk; which said answer is in the words and figures following, to-wit:

In the Court of Private Land Claims, Santa Fe district.

31 UNITED STATES OF AMERICA, ss.

THE CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES ET AL., DEFENDANTS. } No. 80.

Comes now the United States, by its attorney, and for its separate answer to plaintiff's amended petition filed in the above-entitled cause, says:

That it has no knowledge or information sufficient to enable it to form a belief as to whether the plaintiff is a municipal corporation created, organized, and existing under and in conformity with the laws of the Territory of New Mexico or not, but it denies that it is the lawful successor of what it calls the ancient Spanish town of La Villa Real de San Francisco de Santa Fe, or San Francisco de Assis de la Santa Fe, more popularly called La Villa Real de Santa Fe, and denies that it has the same local situs as had the old town of Santa Fe.

It denies that prior to the year 1680, or at any time since said date, its alleged predecessor was entitled under the laws of the Kingdom of Spain in force in this Territory to four square leagues of land, with the centre of the plaza as it now exists as the centre of the four square leagues, as fully described and set forth in said petition.

Says it has no knowledge or information sufficient to enable it to form a belief as to whether the archives of the alleged villa de Santa Fe have ever been destroyed or not, but if so it denies that any grant to said villa by any Spanish authority was among those alleged to have been destroyed, for the reason that none ever existed.

It says it has no knowledge or information sufficient to enable it to form a belief as to whether prior to 1680, and at all times thereafter
32 during Spanish sovereignty over New Mexico the population of said villa exceeded thirty-five families or not.

It has no knowledge or information sufficient to enable it to form a belief as to how long the said villa of Santa Fe has been in existence as a town or villa, nor how long it has been the capital city of government for the Territory of New Mexico.

It has no knowledge or information sufficient to enable it to form a belief as to what orders and decrees may have been issued and dated at said villa of Santa Fe, and avers that the same is irrelevant and immaterial.

Says it has no knowledge or information sufficient to enable it to form a belief as to whether during the Mexican and Spanish sovereignty over this country the town of Santa Fe had any municipal government with a municipal council, or ayuntamiento and other appropriate municipal officials as provided by law.

It denies that said grant is absolute and perfect as a municipal grant under the laws, usages, and customs of the Kingdom of Spain, and denies that there is or ever was a grant to four square leagues of land to the use of the inhabitants of said town or villa, or that by direct grant, or operation of law any title to or interest in four leagues as contained in said petition.

Says it has no knowledge or information sufficient to enable it to form a belief as to the population living within the alleged four square leagues, but denies that all those living within the boundaries of the same are subject to control by the corporation as it now exists in the city of Santa Fe.

It has no knowledge or information sufficient to enable it to form a belief as to the extent and value of the improvements contained within the said four square leagues, but denies that the present plaintiff has jurisdiction over the whole thereof.

Further answering, it says it believes it to be true that certain portions of said land lying within the outboundaries of said four square leagues is claimed adversely to the plaintiff under distinct, separate, and antagonistic claims, but as to whether said claims are well founded in law or
33 fact, this defendant has no knowledge or information sufficient to enable it to form a belief.

It has no knowledge or information sufficient to enable it to form a belief as to whether the alleged dates of said alleged conflicting private land claims are junior to the claims of said city of Santa Fe, for the reason that the date of said alleged pretended grant to said city is not known.

Further answering it says that the claim made by this plaintiff for the land described in the petition is unwarranted and unfounded in law and fact in this, to wit, that no grant was ever made to any corporation of which the plaintiff claims to be the successor to the said four square leagues, nor was it entitled under the law in the absence of a direct grant from lawful authority, to assume, or presume ownership over any portion of said land.

That whatever rights it may have obtained it obtained in the same manner and from the same authority that individuals were required to obtain their rights to real estate within the Spanish Indies.

And it avers that the alleged predecessors of this plaintiff never at any time during the Spanish or Mexican control over this country, claimed, or pretended to claim, or assert title over the said four square leagues, but only to that portion which was actually granted to it by the proper authorities in the manner provided by law in the year 1732; that a large portion of the property lying within the outboundaries of said four square leagues was appropriated and held by the Spanish Government at all times, the Mexican Government at all times, and the United States Government at all times, up to the present time, adversely to all the world, and appropriated and used the same at all times for public uses, free and independent of any municipal or individual rights and not subject to any municipal or individual control, but subject only to the control of said respective governments.

That a portion of said property is now in the custody and under the control, used and occupied by the executive authorities of this Ter-
34 ritory, duly appointed by the United States Government, commonly knows as the "Old Palace," and the grounds adjacent thereto, a more particular description of which this defendant asks to file with the court upon obtaining the same.

That another large portion of land known as the "Military Post," commonly designated as "Fort Marcy," has at all times, and is now, held adversely by sovereign right as to all the world, a more particular description of which this defendant asks leave to file with the court upon obtaining the same.

Another portion of said property so held by the United States, commonly known as the "Federal Building," and grounds which formerly formed part of the Old Military Reservation, and which has at all times been held adversely by sovereign right for public uses, a more particular description of which will be asked for to file with the court upon obtaining the same.

Another portion of said property held and occupied by the Government as the "Industrial Indian School," under the control and direction of the Department of the Interior of this Government, a more particular description of which will be filed with the court upon obtaining the same. That attached to and forming part of the military reservation and under the control of the officers thereof, the public property knows as the "Military Cemetery," wherein the dead of the nation are buried, a more particular description of which will be filed with the court upon obtaining the same.

All of which property was formerly held and is now held independent of the rights of any individual or corporation, and if this court in its wisdom should confirm to this plaintiff or any one else any property, the boundaries of which may conflict with any of the land before mentioned, that the same may be specifically excepted and reserved for the operation of said decree.

Further answering, the United States says that at no time prior to the present was it ever asserted, claimed, or alleged, through any lawful
35 channel or means, or by any lawfully constituted authority thereto, that the Spanish Government had granted to the villa of Santa Fe four square leagues of land, or that the predecessor of this plaintiff was entitled to four square leagues of land by operation of law, but that said claim is of recent origin and recent assertion and subsequent to the date of the treaty of Guadalupe Hidalgo, February 2, 1848.

That the corporate limits and jurisdiction of this plaintiff are not coextensive with the four square leagues described in said petition, and it has no authority for attempting to constitute itself a voluntary trustee for the prosecution of individual rights, if any exist.

Wherefore the defendant says this claim, as asserted by plaintiff, is not one which, under the treaty of Guadalupe Hidalgo, and the laws governing the exercise of jurisdiction by this court, ought of should be recognized or confirmed.

Wherefore it asks that the relief demanded by plaintiff be denied, and that its petition be dismissed.

MATT. G. REYNOLDS,
U. S. Attorney.

36 And be it further remembered that afterwards, to wit, on the 21st day of April, A. D. 1894, the answer of Madalena L. de Ortiz was filed in the same cause in the office of said clerk, which said answer is in words and figures following, to wit:

37 I' the United States of Private Land Claims, Santa Fe, N. M., district.

UNITED STATES OF AMERICA,
Territory of New Mexico:

THE CITY OF SANTA FE
vs.
THE UNITED STATES.

The seperate answer of Magdalena L. de Ortiz, one of the defendants in the above entitled cause, so far as her seperate and individual interests may appear in the petition of the *pal*intiff herein.

And this defendant by protestation, not confessing or acknowledging the matters and things in the said petition as alleged and set forth therein, or any or either of them, for answer says:

That she den*y*s and says that it is not true as charged and alleged that at or prior to the year 1680 there was a municipal or pueblo government at the then alleged city of Santa Fe, which under and by the laws, usages, and customs of the Kingdom of Spain was entitled to a grant of lands of four square leagues of land, as set out and charged in the petition; and this defendant den*y*s and says that it is not true that there ever was made and granted at any time prior to the year 1800 a grant of land of four square leagues of land to and for the sole use and benefit of the alleged municipality or pueblo or Santa Fe, this plaintiff, and of this this defendant requires strict proofs.

This defendant den*y*s that the lands claimed as a grant of four leagues square made to the plaintiff is an absolute and perfect grant, and she den*y*s that such a grant as set out and charged in the petition of the plaintiff now exists or that it ever existed; and of this this defendant requires strict proofs.

Further answering, this defendant avers, and so charges the fact to be, that, on the 23rd day of September, A. D. 1785, Don Juan Bautista de Anza, the then governor and captain-general of then then province of New Mexico, with full power and authority from the Crown of Spain, made and granted to Roque Lovato, a loyal citizen of the said province of New Mexico, a tract of unoccupied public land lying to the north side of the present public square or plaza of the said city of Santa Fe, and within the northern part of the four leagues square now claimed by the plaintiff herein, which said grant is known as the Roque Lovato grant, Private Land Claim No. 52, in the office of the surveyor-general of New Mexico; that this defendant and her grantors have held, used, and enjoyed the actual possession of the same from the said 23rd day of September, 1785, up to and including the present time, and unmolested and undesturbed; which said right and title has at all times been recognized and respected by the plaintiff and the authorities holding under and representing under it.

And this defendant, further answering, avers and so charges the fact to be that, if any such grant or right to such grant ever existed or now exists that the same is inco*h*ate, imperfect, and incomplete, and that it is subject to and subordinate to the rights of this defendant, which she has and holds under the rights and title so acquired through and from the said Roque Lovato, as aforesaid.

And, further answering, this defendant avers, and so charges the fact to be, that her said grant—the said Roque Lovato grant—is a complete and perfect grant, made as aforesaid, in full accordance with the laws, usages, and customs of the Kingdom of Spain, then in full force and effect in the then province, an ultram'*i*ne province of the Kingdom of Spain, and that the title then and there on the 23rd day of September, 1785, became and was ever after that time vested in the said Roque Lovato, his heirs and assigns forever; and is sup'rior in date and title to the grant claimed by this plaintiff, and has become and is a vested right to that of the plaintiff.

N. B. LAUGHLIN,
Attorney for the Defendant.

38 And be it further remembered that afterwards, to wit, on the 21st day of April, 1894, answer of Luis Rivera et al. was filed in the said cause in the office of said clerk; which said answer is in the words and figures following, to wit.

39 In the Court of Private Land Claims of the United States of America, sitting in and for the Territory of New Mexico.

THE CITY OF SANTA FE
vs.
THE UNITED STATES OF AMERICA ET AL. } No. 80, private land claim of the city of Santa Fe.

To the Honorable Joseph R. Reed, Chief Justice of said Court and to the Associate Judges thereof:

The answer of the defendants, Luis Rivera, Albino Jose Dominguez, Juan de Dios Tapia, Kate McKenzie Irvine, M. J. Nagel, Rosario Corkins, Jacob Gold, Louise J. Purdy, Marcos Valdez, Juan Lucero, Refugia Aguilar, J. A. Romero, Juan de Archuleta, Jose M. Lobato, Esquipula Flores, Vicente Velarde, and Jose Antonio Rodriguez, named in plaintiff's amended petition herein.

These defendants by protestation, not confessing or acknowledging the matters and things or of any of them in and by said bill set forth and alleged to be true, in such manner and form as the same are thereby and therein set forth and alleged, for answer to said bill of complaint say as follows:

These defendants answering deny that "prior to the Pueblo insurrection in the year 1680, the said Villa Real de San Francisco de Santa Fe, or San Francisco de Assis de la Santa Fe, or La Villa de Santa Fe, was entitled to and had under the laws of the Kingdom of Spain in force in this Territory, at that time a municipal or pueblo grant conceding to and vesting in the said Spanish town or villa a certain tract of land containing four square Spanish leagues," as the same are described in said amended petition; and said defendants further deny that prior to said year

1680, or at any other time, the said Villa de Santa Fe received any grant for, or was entitled to all or any part of the hereinafter described tracts of land which, within said four leagues, were granted to the several persons hereinafter described.

And these defendants further deny that the grant alleged in plaintiff's said petition is absolute and perfect as a municipal grant under the laws, usages, and customs of the Kingdom of Spain to the use of the inhabitants of the said Spanish town or villa, or their successors, or to the use of the assigns of the said town or villa or its municipal successor, the plaintiff, or any other person.

And defendants further deny that, within the boundaries of the said four leagues claimed by plaintiff as aforesaid, the heads of families, residents, and other persons who occupy or hold lands, "claim to hold the same under" the said alleged grant to the villa of Santa Fe; and defendants further answering deny the averment in said amended petition that "said occupants, holders, and claimants of the lands and improvements thereon constituting said four leagues are not in any sense adverse claimants to said plaintiff."

40 But these defendants allege the facts to be that, of the lands embraced within the said four leagues described in plaintiff's said amended petition, the following-described tracts, being royal domain belonging to the King or Kingdom of Spain, at the times and in the manner hereinafter severally described, were by authority of the King of Spain duly granted in fee absolute, to the persons hereinafter severally named, and that afterward they were severally placed in actual juridical possession of the tracts so as last aforesaid granted, and that from the time of being placed in possession as aforesaid, severally of said tracts of land, said grantees and their tenants, heirs, legal representatives, and assigns, from the time of the making of said several grants and delivery of possession as aforesaid, continuously thenceforward and up to the present time have had and held exclusive ownership and possession thereof, claiming right and title to said several tracts of land, exclusively by virtue of said several decrees of grant and possession, given thereunder by authority of the King and Government of Spain, to wit:

(1) To Jose Antonio Lucero, of date September 20, 1732, there was granted, as aforesaid, by the governor of New Mexico, that tract of land in part lying within the east boundary of said four leagues as is more fully described in Private Land Claim No. 117, pending in this court, wherein said defendant, Juan B. Lucero, is a claimant, and as said grant appears in the records of the U. S. Sur. Gen'l in Reported No. 147.

(2) To Manuel Trujillo, of date of April, 1731, there was granted, as aforesaid, by the governor of New Mexico, that tract of land in part lying within the east boundary of said four leagues as is more fully described in Private Land Claim No. 116, pending in this court, wherein said defendant, Jacob Gold, is a claimant, and as said grant appears in the rewards of the United States Sur. Gen'l in Reported No. 89.

(3) To Bartolome Marquez and Francisco Padilla, of date Aug. 24, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 72, pending in this

court, wherein said defendants, N. J. Nagel and Rosario Corkins, are claimants, and as said grant appears in the record of the office of the U. S. Sur. Gen'l in Reported No. 74.

(4) To Juan Cayetano Lobato, of date Aug. 22, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 103, pending in this court, wherein said defendant, Jose M. Lobato, is a claimant, and as said grant appears in the archives in the office of the U. S. Sur. Gen'l, Archive No. 445.

(5) To Antonio Dominguez, of date Aug. 14, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 105, pending in this court, wherein said defendant, Albino Jose Dominguez, is a claimant, and as said grant appears in the archives in the office of the U. S. Sur. Gen'l, Archive No. 239.

41 (6) To Sebastian de Vargas, of date before 1728, there was granted, as aforesaid, by the governor of New Mexico, that tract of land lying in part within the south boundary of said four leagues as is described in Private Land Claim No. 6, pending in this court, wherein said defendant, Louise J. Purdy, is a claimant, and said grant appears by the archives in the office of the U. S. Sur. Gen'l, Archive No. 441, and others.

(7) To Felipe Pacheco, of date before 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 192, pending in this court, wherein said defendant, Luis Ribera, is a claimant, and as said grant appears by evidence in the archives in the office of the U. S. Sur. Gen'l.

(8) To Juan Antonio Flores, of date before 1743, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 125, pending in this court, wherein said defendant, Esquipula Flores, is a claimant, and as said grant appears by evidence in the archives in the office of the U. S. Sur. Gen'l.

(9) To Juan Felipe Rodriguez, of date before 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 120, pending in this court, wherein said defendant, Jose Antonio Rodriguez, is a claimant, and said grant appears by evidence in the archives in the office of the U. S. Sur. Gen'l.

(10) To Juan Antonio Archuleta and Leonardo Gonzales, of date Sept. 4, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 104, pending in this court, wherein said defendant, Juan de Archuleta, is a claimant, and as said grant appears in the archives in the office of the U. S. Sur. Gen'l, Archive No. 25.

(11) To Antonio Armijo, of date May 10, 1769, there was granted, as aforesaid, by the governor of New Mexico, that tract of land in part lying within the west boundary of said four leagues, as is described in Land Grant Claim No. 102, pending in this court, wherein said defendant, J. A. Romero, is a claimant, and as said grant appears in the archives in the office of the U. S. Sur. Gen'l, Archive No. 44.

(12) To Joseph Romo de Vera, of date Jan. 8, 1746, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is

described in Private Land Claim No. 121, pending in this court, wherein said defendant, J. A. Romero, is a claimant, and as said grant appears on file in said private land claim.

(13) To Catarina Maese, of date July 22, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 119, pending in this court, wherein said defendant, Vicente Valarde, is a claimant, and as said grant appears in the archives of the office of the U. S. Sur. Gen'l, Archive No. 527.

42 (14) To Domingo Valdez, of date June 3, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 49, pending in this court, wherein said defendant, Marcos Valdez, is a claimant, and as said grant appears in the archives in the office of the U. S. Sur. Gen'l, Archive No. 1043.

(15) To Alfonso Rael de Aguilar, of date July 23, 1744, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 191, pending in this court, wherein said defendant, Refugia Aguilar, is a claimant, and as said grant appears in the records of the office of the U. S. Sur. Gen'l, File No. 104.

(16) To Tonas Tapia, of date Jan. 2, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 189, pending in this court, wherein said defendant, Juan de Dios Tapia, is a claimant, as said grant appears by the archives in the office of the U. S. Sur. Gen'l, Archive No. 962.

(17) To Felipe Tafoya, of date May 26, 1742, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Land Claim No. 187, pending in this court, wherein said defendant, Refugia Aguilar, is a claimant, as said grant appears by the archives in the office of the U. S. Sur. Gen'l, Archive No. 961.

(18) To Jose Duran, of date Aug. 16, 1743, there was granted, as aforesaid, by the governor of New Mexico, that tract of land as is described in Private Land Claim No. 12, pending in this court, wherein said defendant, Kate McKenzie Irvine, is a claimant, as said grant appears in the archives in the office of the U. S. Sur. Gen'l, Archive No. 237.

And further, these defendants allege that no claim of title to said four square leagues or any portion thereof has ever been asserted by the municipal predecessors of the plaintiff, under and by virtue of any grant made directly to it by any authority, or vested in it by presumption or operation of law, until the formation and organization of the present corporation of the city of Santa Fe.

And these defendants, solely as a matter of precaution, deny each and every conclusion of law set up by the plaintiff in its said amended petition.

And further, defendants state that they have filed their several claims aforesaid in this court, and pray that, due proceedings being had, defendants' said claims may be heard, and that the validity and extent thereof may be inquired into and decided by this honorable court.

These defendants also pray for such other and further relief in the premises as they in justice and equity may be entitled to.

JAMES H. PURDY,
Attorney and Solicitor for said Defendants.

43 And be it further remembered that afterwards, to wit, on the 21st day of April, A. D. 1894, the same being the 12th day of the April term, A. D. 1894, the following further proceedings were had in the said cause to wit:

THE CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } No. 80.

The above-entitled cause having been called for trial, there appeared C. H. Gilderslieve and E. L. Bartlett, esq., solicitors for certain citizens not named, Mr. Gildersleeve also representing the Santa Fe Progress and Improvement Co.; C. A. Spiess and A. B. Renchen, esquires, for the petitioner, and T. B. Catron, esq., and Eugene A. Fiske, esquires, appearing for and on behalf of the people of Santa Fe; N. B. Laughlin for the plaintiff in case No. 80, Magdalena L. de Ortiz vs. The United States; James H. Purdy for and on behalf of petitioners in the following cases, to wit: Juan B. Lucero et al. vs. The United States, No. 117; Jacob Gold et al. vs. The United States, No. 116; M. J. Nagel, Rosario Corkins, et al. vs. The United States, ≠ 72; Jose M. Lobato vs. The United States, No. 103; Albino Dominguez et al. vs. The United States, No. 105; Louise J. Purdy et al. vs. The United States, ≠ 6; Luis Ribera et al. vs. The United States, ≠ 192; Esquipula Flores et al. vs. The United States, ≠ 125; Jose Antonio Rodriguez et al. vs. The United States, 120; Juan de Archuleta vs. The United States, ≠ 104; J. A. Romero et al.
44 vs. The United States et al., ≠ 102; J. A. Romero et al. vs. The United States, No. 121; Vivente Velarde et al. vs. The United States, No. 119; Marcus Valdez et al. vs. The United States, No. 49; Refugio Agilar et al. vs. The United States, ≠ 191; Juan de Dios Tapia et al. vs. The United States, 189; Refugia Aguilar et al. vs. The United States, No. 187; Katie McK. Irvine vs. The United States, No. 12. Oral and documentary proof was introduced.

45 And be it further remembered that afterwards, to wit, on the 23rd day of April, A. D. 1894, the same being the 13th day of the April term, A. D. 1894, the further following proceedings were had in the said cause, to wit:

CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } No. 80.

Trial of the above-entitled cause was resumed, all the attorneys in the cause being present. Further oral and documentary proof was introduced.

46 And be it further remembered that afterwards, to wit, on the 21*rd* day of April, A. D. 1894, the same being the 13th day of the April term, A. D. 1894, the following proceedings were had in the said cause, to wit:

CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } No. 80.

In the above-entitled cause the United States attorney, on leave of the court first had and obtained, filed his separate answer.

N. B. Laughlin, esq., also filed an answer in this cause for the plaintiff in cause No. 180, Magdalena L. Ortiz vs. The United States.

47 And be it further remembered that on the trial of said cause the following evidence was introduced by said parties, to wit:

48 In the Court of Private Land Claims, district of New Mexico.

THE CITY OF SANTA FE (A CORPORATION), petitioner, *vs.* THE UNITED STATES OF AMERICA AND others, defendants. } No. 80.

Transcript of the trial.

SATURDAY, *April* 21, 1894.

This cause coming on to be heard, the petitioner being represented by E. A. Fiske, esquire, T. B. Catron, esquire, C. H. Gildersleeve, esquire, C. A. Spiess, esquire, E. L. Bartlett, esquire, and A. B. Renahan, esquire, city attorney, and the United States being represented by Matt. G. Reynolds, esquire, its attorney, and the adverse claimants cited to appear being represented by James H. Purdy, esquire, and N. B. Laughlin, esquire, the following proceedings were had, to wit:

Mr. REYNOLDS. I ask leave to enter in my supplemental answer, as soon as the authorities furnish the information to me, the description of the several properties which the United States is now occupying within the limits of this alleged grant. I have set them up generally, but will get a description of them, so that the reservation made may be specific.

Mr. LAUGHLIN. I ask leave of court to file an answer for case number 180 (Roque Lobato), one of the adverse grants cited here.

Which leave was granted by the court.

Mr. FISKE. After consultation with most of the counsel for the

49 city, the disposition seems to be to respect the claims of the United States, either under its original disposition or under its purchases from private individuals. There is no disposition to deny the right of the United States to those properties which it has occupied since the change of sovereignty; we are willing to concede that to the United States attorney.

Mr. CATRON. The grant which I represent, and which is cited here, I want to say, so far as it conflicts with this grant, is subordinate to it. I also appear for the citizens of the town—some of them.

Mr. SPIESS. I desire to make a statement to the court as to what our evidence is to be, and as to how we are claiming we are entitled to the grant under which we claim to represent here. Our claim is analagous to the claim made in the city of San Francisco case, and is analagous to the claim which is known as the Brown'ville, Texas, claim. If the court please, we claim our grant on, not so much as to the existance of papers of title or documentary evidence, but through operation of law, as was claimed and held in the case of the town of Albuquerque, which this court has already decided, and as was held in the San Francisco and town of Brown'ville, Texas. The case of the city of San Francisco was decided by the Supreme Court of the United States after the city of San Francisco produced evi-

dence sufficient to show that it was a corporation under the Mexican and Spanish Governments; that as such corporation it possessed an ayuntamiento and other city officials which belonged to it; and on this evidence the court presumed and said it was entitled to four square leagues. It was so held in the town of Brownsville, and was so decided by this honorable court in The Town of Albuquerque against The United States, case No. 8.

In our case we expect to show that we had a' existance in the year 1680, and that as far back, at least, as 1704 we had a corporate existance, and that as having such corporate existance, and having duly constituted officials, an ayuntamiento and alcalde of that corporation, that this court will presume that we are entitled to four square leagues of land, to be measured from the centre of the plaza of this town.

In regard to these adverse claims presented here, I do not just now desire to call the attention of the court to what we think is the law fixing their rights. I will, however, say that we will combat the idea that the governors of this Territory had any power to make grants within
50 the exterior boundaries of the Santa Fe grant; whether they have been made I do not pretend to admit, and we will combat the idea that they were made through lawful authority by the persons granting them. I do not care to go into the law at this time, and have merely confined myself to what the city expects to prove.

Pleadings read to the court.

WILL M. TIPTON, sworn as a witness on behalf of the petitioner, testified as follows:

Questioned by Mr. CATRON:

Q. Mr. Tipton, what has been your occupation in connection with the surveyor-general's office of New Mexico in years past?

A. I have been employed in the surveyor-general's office in various capacities, and for some seven or eight years was translator of the office and custodian of the Spanish archives.

Q. In connection with your employment did you have the opportunity of becoming acquainted with the signatures of the various Spanish officials and persons in power generally back as far as 1704 or 1680?

A. Yes, I did with a great many of them, and probably the most of them.

Q. I will ask you to examine the paper which I show you [paper taken from another case]. Will you look at the name at the bottom of that paper and state what name it is and whether or not you recognize the signature there as being the genuine signature of the man whose name is written there or not?

A. The name is that of Alfonso Rael de Aguilar, who signs the instrument as civil and military secretary. I am acquainted with his signature, and this one is in my opinion genuine.

Q. Will you look at the signature of the man by the name of Gongora, and state whether you have seen that signature before?

A. Yes, sir; I have seen that signature.

Q. In what capacity is that signed to that paper?

A. As secretary of cabildo.

Q. Just state what is meant by "cabildo," so we can get it in the record.

A. By cabildo I understand "a municipal body."

Q. It would be a corporation council?

A. Yes, sir; practically the same thing.

Q. Did you state whether that was his genuine signature?

A. That is a genuine signature.

51 Q. Do you recognize any other signatures on that document?

A. Yes, sir.

Q. Please state what they are.

A. I recognize the signature of Juan Paes Hurtado and that of Antonio de Aguilar y Ysase. I am not certain about the others.

Q. About 1704 what position did Juan Pais Hurtado have, if you know?

A. In 1704, I do not recollect. He was acting governor at various times, but I don't recollect what position he held in 1704.

Q. Turn over to the bottom of this page here and state whose and what names you find at the bottom of that page, and whether you have ever seen those signatures before.

A. The first signature at the bottom of this page is that of Marquez de la Nava de Brazinas, the second is that of Alfonss Rael de Aguilar.

Q. State whether or not those are their genuine signatures, if you know.

A. I think they are.

Mr. CATRON. Mr. Reynolds, this is a paper which we have received from the people of Santa Cruz; we received it from them.

Mr. REYNOLDS. I have no objection; it is proven the signatures are genuine.

Mr. CATRON. Yes, if the court please, with reference to this paper, is was received from the people of Santa Cruz, and is filed by them in a case pending in this court, and we ask the court to take notice of—we don't care to introduce the whole document, and merely offer it for the purpose of showing the existence of the city of Santa Fe referred to on the last page of the document preceeding the papers signed by Marquez de la Nava. We offer it and will furnish a translation. This is all the testimony we desire to introduce showing the existance of this town——

Mr. BARTLETT. No, we have some more here.

Mr. CATRON. I take it that this court will take notice of the fact, the historical fact, that this town has been in existence since 1704.

By the COURT. If Mr. Bartlett has them they may be introduced——

Mr. CATRON. To prove that at the time the Americans came in and took possession of this country there was an organized city here?

52 FRANCISCO GONZALES Y CHAVES, sworn as a witness on behalf of the petitioner, testified in Spanish as follows:

Questioned by Mr. CATRON:

Q. How old are you?

A. I am going on sixty-four years of age.

Q. Where have you resided all your life?

A. I was born here and have lived here.

Q. Where were you in August, 1846, when the Americans came into this city?

A. I was here in Santa Fe.

Q. Do you know whether or not prior to the entry of the American troops, before that time, there was any city government or organization in Santa Fe?

A. Yes, sir.

Q. What was there?

A. There was an ayuntamiento in conjunction with the governor who made the laws; the cabildo was the ayuntamiento.

Q. Was there an alcalde?

A. Yes, sir.

Q. How many?

A. There was an alcalde mayor and alcaldes of the several Instances.

Q. Did they have rijidores—did that city council possess rijidores, or persons selected to look after city affairs?

A. Yes, sir.

Q. Was there a prefect here?

A. The city attorney was the name of the prefect.

Q. How long did you know of the existence of this city as a corporation with these officers prior to the coming of the American troops here?

A. I knew that probably from the year 'forty-one.

Q. From the time you had the use of reason did you know anything about it?

A. Yes, sir. From 'forty-one; I was ten years of age; I observed everything, as I was servant to the governor, the Don Manuel Armijo.

Witness excused.

Mr. BARTLETT. I call the attention of the court to the volume of Bancroft [presenting vol.] which states as a historical fact that the town of Santa Fe was formed sometime before the year 1617, the
53 exact date of which cannot be ascertained. I offer that book for the information of the court. Also a book by Davis called the Re-conquest of New Mexico, and also the History of New Mexico by Governor Prince. Also the historical sketch by Reverend Father , called the Martyrs of New Mexico.

We now offer an archives from the surveyor-general's office, which is admitted to be genuine, number 816. This is Exhibit No. 2 in this case, and is addressed to the governor and captain-general, and shows that there was a corporation council here, existing as such, and that the governor recognized it as such.

The next is Exhibit No. 4, original copy and trasnlation heretofore offered in this court in the Albuquerque case; it is offered for the same purpose, of showing the existence of the corporation here.

The next is surveyor-general's archive No. 1205, which was also filed as Exhibit B in the Albuquerque case. Both of these papers we are permitted by the U. S. attorney to use in this case, showing that in 1708 there was a city government here.

The next is in the same Albuquerque case, from the records of Bernalillo County, marked Exhibit No. 6.

This is archive No. 126, surveyor-general's office, Exhibit No. 7, which I offer.

The next will be our Exhibit No. 8, Spanish archives from the Territorial library, dated in 1693; it is the dairy of *of* Diego de Vargas, reciting his entry into Santa Fe on his return. Territorial archive without number.

The next will be Exhibit No. 9, also Spanish archive from the Territorial library, and translation thereof, dated 1694, reciting the entry of

the troops into this town of Santa Fe, showing that at that time it had been growing somewhat and was so populated as to have no room for this 62 families.

The next is Exhibit No. 12, which is a census in this Province of New Mexico, taken in 1790, and is taken from the Territorial archives, and this states the population of the city of Santa Fe in 1689 was 3,733.

54 Exhibit No. 13 is another census of the city of Santa Fe, from the Territorial archives.

The next will be Exhibit No. 14, which is a letter from Don Diego de Vargas in the year 1694.

I will offer now document number 17, which is the church record of the year 1699, and the translation.

The next is Exhibit No. 18, order of King Charles, dated 1622.

The map filed in this case we introduce in evidence.

There are four other exhibits in this case which I wish to offer, but I don't see them here. They were filed. I will offer them in evidence by their numbers anyhow. They are numbers 10, 11, 15, and 16.

Recess taken until 2 o'clock.

AT 2 O'CLOCK.

Mr. BARTLETT. I will introduce by title the exhibits which I could not find, but referred to this morning. Exhibit No. 10, Spanish archives from the Territorial library, with translation, dated 1764, and order of the governor.

No. 11 is an extract from a decree made in 1621.

No. 15 is an extract from the church records, 1780.

No. 16, extract from church records in the year 1726; and this completes our exhibits, from 1 to 18, inclusive.

It is admitted by the Government and other defendants in the case the existence of the corporation of Santa Fe organized under the Territorial laws, except the boundaries thereof.

Mr. BARTLETT. We offer the act of the legislature of this Territory, 1851, incorporating the city of Santa Fe; and there was an act of the Territorial legislature of 1882 giving the county commissioners of Santa Fe County authority to dispose of the lands within the Santa Fe grant, approved July 4, 18—, found in the special law compilation made in 1884, page 454, and also authorized the commissioner to make the necessary deeds, found in the same volume.

Mr. REYNOLDS. I object to the introduction of any act of the Territorial legislature transferring the title of a municipal corporation to the county commissioners, or authorizing them to dispose of the lands of the municipal corporation as being absolutely void and without authority.

Mr. CATRON (for certain plaintiffs). I wish to join in that objection on behalf of the plaintiffs I represent.

55 Mr. SPIESS. I do, also.

Father ANTONIO FORCHEGU, sworn as a witness on behalf of the petitioner, testified as follows:

Mr. GILDERSLEEVE:

Q. What is your name?

A. Antonio Forchegu.

Q. What is your profession?

A. I am a Catholic priest, and vicar-general of the Catholic Church in Sante Fe.

Q. As such priest and vicar-general have you the possession and custody of the official archives of the church?

A. I have of a large number of them.

Q. Will you produce those you have with you, please?

(Witness produces books.)

Q. Are these the official archives of the Catholic Church that are in your custody; that is, a part of them?

A. Yes, sir.

Q. Are they the archives of the cathedral?

A. They are.

Mr. GILDERSLEEVE. In order not to burden the record we have caused a translation to be made of the first entry and the last entry, on the first and last pages respectively of each volume, and will introduce them that way.

Q. Will you turn to the record of deaths?

A. Of these that I have here are dated 1726.

Q. I was mistaken; it was the marriages I had reference to.

A. That is in 1728.

Q. Have you made a comparison of these entries with the translation we have introduced in evidence?

A. Yes, sir.

Mr. GILDERSLEEVE. I offer the books in evidence, having proven their authenticity.

Q. I will ask you once more to turn to the record of deaths.

(Witness does so, and exhibits same.)

Mr. GILDERSLEEVE. I offer this in evidence, book of deaths, 1726, Exhibit X, first and last page.

56 Q. I will ask you to refer to the record containing the notes of visiting padres with their reports.

A. There is one, number 1, which refers to 1697.

Mr. GILDERSLEEVE. I offer that in evidence, the last page of it.

Q. How long have you resided in Santa Fe?

A. Very nearly two years.

Q. How long have you resided in New Mexico?

A. Since '68; I went to other parts of the Territory, and then came here about two years ago.

Q. During the time you have lived in New Mexico have you famil'arized yourself, by study or by conversing with the people, with the history and conditions of the Catholic Church in Santa Fe?

A. Yes, sir.

Q. What properties does the Catholic Church claim to own in Santa Fe?

A. The church possesses the cathedral and the land around it; outside of the cathedral and the property belonging to it, it has the Church of Rosario and Church of Santa Rosa, and the Church of Our Lady of Guadalupe, the Chapel of San Miguel and graveyard, and also the graveyard of Guadalupe, and place where the bishop lives. * * * * *

Q. What is the history and tradition of the church with reference to its establishment, and where the cathedral is now erected?

A. By historians it is placed at different dates, but it is most probably in 1543. The first church was erected here by the Spanish commander of th' Franciscans building the parish church of San Francisco, and they also built the Chapel of San Miguel.

Q. Do I understand, then, that the history of the church dates back from 1543?

A. I don't know when they were finished; they commenced the work on these churches in 1543, according to what Onate says, but they were all driven away from Santa Fe by the revolution in 1580 or '81, and the churches were destroyed; most of the parish church was destroyed, only because it belonged to the Spaniards, but they were reconstructed again in 1692.

Witness excused.

57 Father JAMES H. DE FOURI, sworn as a witness on behalf of the petitioner, testified as follows:

Mr. GILDERSLEEVE:

Q. What is your name?

A. James H. de Fouri.

Q. What is your age?

A. Sixty-three years.

Q. What is your profession?

A. The Catholic profession.

Q. Are you in charge of a church?

A. I have charge of the Church of Guadalupe.

Q. How long have you lived in New Mexico?

A. Thirteen years.

Q. Are you the author of a work entitled Historical Sketch of the Catholic Church of New Mexico?

A. Yes, sir.

Q. Also a work entitled *Myrtars* of New Mexico?

A. Yes, sir.

Q. Have you given the subject of the history of the church a study?

A. Yes, sir; I have.

Q. Please state the result of your examinations and researches.

A. The first priest came to Santa Fe in 1541 with Coronado. Coronado left here in search of gold on the plains. He went out in the spring of 1542 from this place of Tiguex and went as far as the Missouri River, and then became discouraged and returned to this place for the winter. And he went back to Mexico in April, 1543. There were serious disagreements between him and some of his officers and men as to whether they should return to Mexico or not. He persuaded his officers and men to address to him a petition asking him to lead them back to New Spain, and they did so, and afterwards the' repudiated their petition, as they preferred to stay here at Tiguex, and they tried to get him to give it back, but he would not do it, and then they tried to steal it from him, but he kept it securely on his person. There was a great deal of desertion among his officers and soldiers; they left his army, three or four
58 hundred of them, and when he reached Mexico he had scarcely a hundred. The Spanish settlement at Santa Fe dates, therefore,

from the spring of 1543, when Coronado started back to Mexico, and he left with the deserters three priests and a Portuguese to wait on them.

Q. When did the priests first construct a church here?

A. The three priests said mass over in the pueblo until they erected in Santa Fe here a church, where they worshiped in the spring of 1543, and I think this was the foundation of the San Miguel Church of to-day. I do not know whether the walls are the same, but I think the' built the foundation of the present church.

Q. This is your opinion, based upon a long research and investigation of the matter?

A. Yes, sir.

Q. Did this settlement continue?

A. Yes, sir; until 1680. The simple-minded natives were of an amiable disposition, and they helped the Spaniards cultivate their fields, and performed other menial service, and then the Spaniards became tyran-'ical and imposed on the Indians, finally resulting, after a number of unsuccessful attempts at revolution, in the successful revolution of 1680. There were one or two unsuccessful attempts to reconquer New Mexico between 1680 and '92. This successful expedition of 1692 was in charge of Don Diego de Vargas. He left El Paso the latter part of August, and by forced marches reached Santa Fe on September 12th, and after a hard fight recaptured the town, and several of the churches now here date from that time.

Q. Where has the head of the church in New Mexico been since that time?

A. Since what time—I may say since 1542, the first expedition—the head of the church has been in Santa Fe.

Q. Then do you understand that there was an Indian pueblo at this place when the Spaniards first came here?

A. Yes, sir; Tiguex.

Q. And that pueblo was on the other side of the river, but up to the river as it is now?

A. Yes, sir; and it reached down on the other side for several
59 miles, about to where Agua Fria is now.

Q. Can you gi'e the names of the principal pueblos within that pueblo?

A. It was the province of Tiguex when the Spaniards came here.

Q. And they had how many inhabitants?

A. About forty thousand for the province; I can't state exactly.

Q. When was the first bishop sent to New Mexico?

A. In 1850; there was a request made to Rome in 1713 for a bishop, and the papers were sent, but the first bishop was in 1850.

Witness excused.

MANUEL VALDEZ, sworn as a witness on behalf of the petition', testified as follows:

Q. What is your name?

A. Manuel Valdez.

Q. Age?

A. Forty-eight.

Q. What is your present occupation?

A. Assistant Territorial librarian.

Q. Have you in your custody the originals of Exhibit 8, 9, 11, 12, 13, and 18, filed in this case?

A. I don't know the numbers of them.

Q. They are taken from those papers, are they not?

A. Yes, sir.

Q. How long have you been the custodian of the Territorial library?

A. Since last January.

Q. Since then they have been in your custody?

A. Yes, sir.

Q. Did you find that paper among them—the official archives of the Territory of New Mexico [showing witness a paper]?

A. Yes, sir.

Cross-examination:

Q. Do you know how those archives have been kept?

A. I do not.

Q. You don't know anything about them, except that you found them there?

A. I brought these papers from the court-house.

Witness excused.

60 EPIFANIO VIGIL, sworn as a witness on behalf of the petitioner, testified as follows:

Q. What is your name?

A. Epifanio Vigil.

Q. What is your age?

A. Sixty-one years and fou'teen days.

Q. Where do you r'side?

A. Santa Fe.

Q. How long have you resided here?

A. All my life.

Q. Who was your father?

A. Donaciano Vigil.

Q. Did your father ever occupy any official positions under the Mexican Government?

A. Yes, sir.

Q. What?

A. He was in the military service; then he was secretary of the Territory under Governor Armijó.

Q. In what year?

A. 1838.

Q. Did your father occupy any official position under the Government of the United States?

A. Yes, sir; secretary of the Territory.

Q. Appointed by whom?

A. General Kearney.

Q. In what year, and how long did he serve?

A. 1846.

Q. Did you hear the testimony of Mr. Valdéz with reference to the archives produced here?

A. Yes, sir.
Q. Have you ever seen these archives before?
A. Yes, sir.
Q. Whe' did you first see them?
A. '46, '50, and '51.
Q. Did you see them in the archives of that office?
A. Yes, sir.
Q. How did you happen to see them?
A. My father had them under his control when he was secretary of the Territory.
Q. As secretary of the Territory your father was the custodian of the official archives?
A. Yes, sir.
61 Q. When was the last time you saw them there?
A. It was in 1879, I think, when Governor Wallace was governor of the Territory.
Q. When did you next see them?
A. The last six or seven days.
Mr. GILDERSLEEVE. I offer these in evidence.
(Some papers introduced from the Territorial library.)
Witness excused.
And court adjourned until to-morrow morning at 10 o'clock.

I hereby certify that the above and foregoing contains a full, true, and complete transcript of the proceedings had in open court in this cause on April twenty-first (21st), 1894, the same being case No. 80, City of Santa Fe vs. The United States and others.

FREMAN F. PARKER, Jr.,
Official Stenographer.

62 In the United States Court of Private Land Claims, sitting at the city of Santa Fe, within and for the Territory of New Mexico.

THE CITY OF SANTA FE
versus
THE UNITED STATES ET AL. } No. .

(The official stenographer of the court being absent by reason of sickness, it was ordered by the court that Mr. Robert C. Gortner be, and he was thereupon, appointed and named as special official stenographer for the remainder of the present term of said court.)

Present: The honorable chief justice and the associate justices; Hon. Matt G. Reynolds, United States attorney; James H. Purdy, esq., attorney, representing claims adverse to the Santa Fe City grant; Messrs. Thos. B. Catron, Chas. A. Spiess, Eugene A. Fiske, Chas. H. Gildersleeve, Edward L. Bartlett, J. P. Victory, and A. B. Renehan, representing said claimant, The City of Santa Fe.

63 Evidence introduced by way of defense to the grant claimed by the city of Santa Fe, and in chief for the confirmation of the grant known as the Talaya Hill grant, petitioned for in the cause entitled Jacob Gold et al. vs. The United States, No. 116.

APRIL 23RD, 1894.

Mr. REYNOLDS. I understand that Mr. Purdy now proposes simply to make his defense as codefendant to the Santa Fe case. The Government has some defense in the Santa Fe case, and I understand he is simply going to make his defense thereto.

The COURT. We want these cases tried as we go along, fully.

Mr. REYNOLDS. Well, the Government has some witnesses in these little claims, as well as in the city of Santa Fe case. These records must be made separately. These claims are antagonistic, and if the Government should want to appeal in any one of them the mixing of the record would make it absolutely impossible to do it. I do not understand that Mr. Purdy intends to go into his entire case here, but simply to make the claim as defense to the alleged grant to the city of Santa Fe.

Mr. PURDY. My understanding was that I should present each
64 and every one of them with the testimony I have and all that I have and all of my claim.

The COURT. That was our understanding, and seems to us the only proper way to proceed. We can not determine whether there is a conflict between two grants—whether Mr. Purdy is entitled, in case of a confirmation of the Santa Fe grant, to have his claim excluded—until we have the whole case before us. The Government will have an opportunity to make its defense. We will keep the record separate.

CHARLES F. EASLEY, called as a witness on behalf of the claimants in said cause, No. 116, was duly sworn.

Mr. REYNOLDS. Is this an independent record, or is this testimony to go into the Santa Fe record?

The COURT. An independent record in one sense, and in another a part of the record in the Santa Fe case.

Mr. REYNOLDS. I had understood from him that he did not want to put into the Santa Fe case all the testimony he will offer when he makes his claim for the confirmation of his grant.

Mr. PURDY. In this defense it is necessary for me to present all of my papers and that a duplicate be filed in the Santa Fe case. I have found that a physical impossibility, and I ask that the duplicates filed in these several cases shall be considered as being filed in the Santa Fe case, and I do not know of any exception of any papers that I can hold out against the city of Santa Fe and still present against the Government.

65 Mr. FISKE. If your honors please, I do not see any difficulty in having every paper and all testimony put in at this time. For the purposes of the argument they may be consolidated—for the purposes of the hearing, and the Santa Fe grant may make such objections to these introductions as the attorneys see fit. For the purposes of consideration by the court they can be considered separately, and a separate decree rendered and a separate record kept in each one of them.

Mr. PURDY. As to anything that may be presented in any one of these claims I suppose that the city of Santa Fe may come in and intervene in any of them, but there is no evidence here to be concealed or held back or kept out of the record in any way. I ask that the papers be considered in as filed in—that the record may show that these papers be considered filed in the Santa Fe case.

Mr. BARTLETT. That is satisfactory. The city has joined with the United States in defending, and the papers being filed and served on the United States, that is service on it.

Mr. FISKE. That can be done, if your honors please, by stipulation that such papers of these small grants as are necessary to establish title to these small grants may be filed in and considered of record in the Santa Fe case.

Counsel state that they are all willing to agree as suggested, and all such papers as are necessary to show title to the Santa Fe grant are agreed to be submitted in it.

66 Mr. REYNOLDS. I would suggest that the Government make its defense to the Santa Fe case now, instead of having all these records going in. I would like, so far as the Government is concerned, that its defense to the Santa Fe grant be made at once.

The COURT. Very well; you will take that course.

Defense of the United States to the case in chief for the confirmation of the grant to the city of Santa Fe.

W. M. TIPTON, called as a witness on behalf of the United States, being duly sworn and examined by Hon. Matt G. Reynolds, United States attorney, testified as follows:

Q. What is your business?

A. I am a special agent of the Court of Private Land Claims, detailed for service in the office of the United States attorney for that court.

Q. What was your business before your employment as special agent of the Department of Justice?

A. I was employed for a great many years in the office of the United States surveyor-general of this Territory.

Q. In what capacities?

A. I was employed as a clerk and draughtsman and a deputy surveyor, but for the time I say, seven or eight years, I was translator in the surveyor-general's office and had charge of the Spanish papers.

Q. Are you familiar with what is known as the Spanish and
67 Mexican archives in that office?

A. Yes, sir; I am.

Q. I will get you to state whether or not you have made examination recently of the archives in connection with the alleged grant to the city of Santa Fe, with a view to determining the various actions taken or alleged to have been taken by the officers under the Spanish and Mexican Governments as to the lands lying within the four square leagues claimed by the city.

A. Yes, sir; I have.

Q. Have you made notes of your examination?

A. Yes, sir.

Q. I wish you would state to the court the result of that examination as to what you found with reference to the status of the property lying within the four square leagues as disclosed by the archives.

Mr. BARTLETT. May it please your honors, that question is objected to, because it calls, as I understand it, for the legal opinion of this witness on the archives. I understand that as calling for a legal conclusion.

Mr. REYNOLDS. It asks for what is in the archives. I have sent for the documents, and when they are introduced the court will put the legal

construction on them. It is done with a view to refuting the alleged presumption of the action of the officers of the Government.

Mr. FISKE. We have no objection, but he did not have to ask this question. We object to the legal opinions of this witness.

68 Mr. REYNOLDS. I don't ask him for his legal opinion. I ask him for what he finds. Mr. Tipton, take the matter up in chronological order.

A. I can only do that by reference to my memoranda. I find among the archives in the surveyor-general's office, and in some reported cases in that office, Spanish documents of grants of land made within the four leagues to which claim is made by the city of Santa Fe, and I have made memoranda in relation to each of these claims and have them arranged chronologically.

Archive 422 in the surveyor-general's office is an original document of grant made by Don Diego de Flores, governor of New Mexico, on the fifteenth day of January, 1693, to Juan Lucero de Godoi. These lands lie north of the Santa Fe Creek, and at least partially within the four leagues claimed by the city, and I am inclined to think entirely within.

Archive 425 is a copy of a petition and granting decree certified by Manuel Tenorio de Alba, as secretary of the cabildo of Santa Fe, of the grant made by Don Pedro Rodrige Cubero, on the thirtieth day of July, 1697, to Antonio Lucero de Godoi. These lands lie east of the grant to Juan Lucero de Godoi and north of the Santa Fe River. I think they come as far east as the road from Santa Fe to Tesuque.

In private land claim, file number 4, in the surveyor-general's office, document marked "2" in red ink is a grant made by Don Juan

69 Ygnacio Flores Mogollon, on the twentieth of August, 1715, to the cabildo of Santa Fe, for the land commonly known as the cienega. This grant does not claim to be a grant of all the property known as the cienega, but is a grant for a portion of it made subject to a prior grant made by the same governor, to one Diego Arios de Quiros.

Reported number 137 in the surveyor-general's office is a claim for a grant alleged to have been made to Sebastian de Vargas, some time prior to 1728. This claim has been acted upon by this court and confirmed for a portion of the area claimed, and it conflicts with the southern portion of the grant claimed by the city of Santa Fe.

Archive 85 in the surveyor-general's office contains two grants; the first made in August, 1728, by Governor Bustamente, to Juan de Leon Brito, being a revalidation of a former grant made by Governor de Vargas for a tract of lands lying east of the Pecos road and bounded north and south by two acequias used for irrigation by Captain de Vargas. This document is not an original, but is a certified copy.

Reported number 89 in the surveyor-general's office is a grant alleged to have been made in 1731 to Manuel Trujillo. There is no granting document among the papers, but *b't* the case is based upon an act of possession. The grant has been surveyed by the United States Government, and according to that survey includes an area of about one thousand acres. About three-fourths of these are, according to the lines of the survey, in conflict with the grant made to the city of Santa Fe.

70 Reported number 68 is the Luis de Armenta grant. This grant is alleged to have been made on the 11th day of December,

1732, by Governor Cruzat, the governor, to Luis de Armenta. The lands are situate on what we commonly call the Las Vegas road, or old stage road. They are north of the Chamisos arroyo and south of the Acequia Madre, and are entirely in conflict with the grant claimed by the city of Santa Fe. The Spanish paper in the surveyor-general's office, on which the claim is based, is not an original, but is a certified copy made by Governor Anza in 1733.

Mr. BARTLETT. I would enquire of the United States attorney if all these claims are not represented by Messrs. Purdy, Catron, and Laughlin?

Mr. REYNOLDS. No. There are a number of these claims not filed in the court and not asserted, but I propose to go through them and show the condition of the archives, as a historical matter only, for the purpose of refuting what is claimed to be a presumption in favor of the city here for four square leagues under the law. That is the only object, and in doing that I am not confined to suits filed in this court, but to the condition of the archives as we find them.

Mr. BARTLETT. I was going to suggest that all those that are represented be omitted from this testimony, as they will come in in their regular order.

Mr. REYNOLDS. I have no objection to that.

The COURT. If the document is once in, it will.

71 Mr. GILDERSLEEVE. If the Government introduces these fifteen or sixteen grants which Mr. Purdy is representing and asserting affirmatively to defeat us, will not the Government be estopped from denying the validity of these grants when it comes to contest Mr. Purdy?

Mr. REYNOLDS. The Government's attorney is prepared to take the responsibility for the introduction of any testimony he deems proper in this case. The question of estoppel does not cut any figure.

The COURT. We simply suggest that when the document is once introduced in evidence it will not be necessary to introduce it for anybody else. They can rely on the fact that it is in.

Mr. FISKE. This witness on the stand has gone over the archives and is putting in evidence his own opinion as to where the grants lie. There is no showing that he is an expert surveyor; that he has located this land; yet his testimony goes in that such and such a grant conflicts with the town of Santa Fe. Now, he has not qualified himself to give that class of testimony. I think the only proper testimony is the documents themselves to be introduced, or testimony from some one who knows where they are located—that they do conflict with the Santa Fe grant.

The COURT. We understand that this is preliminary to the introduction of the documents themselves.

Mr. FISKE. Yes, but it is going in as proof. For instance, the
72 witness says such and such a grant goes down to the Tesuque River. He must be a surveyor. He must know. And though he is not, this proof is going in. He is testifying that such a grant is entirely within the four leagues of the city of Santa Fe. Now, that is a matter of proof, a matter of expert proof, too, when it comes to establishing boundaries; and the papers are the best to prove that. If the papers give a boundary, then to establish that boundary on the earth's surface is a matter which this witness has not so far qualified himself to testify to. This is all going in, and if this goes in it is not necessary to introduce the papers,

because he has testified to what the papers would prove if produced before your honors, with the boundaries. I suggest that it would be more orderly for the United States attorney to produce the papers, and let the witness testify he found them in the archives.

The COURT. You will produce the papers. If the witness knows the location of the lands you may specify that.

(The archives in question are brought from the surveyor-general's office.)

A. (The witness.) I have to go back to where I begun, if you want this thing straightened.

This is the first document, of 1693, the grant to Juan Lucero de Godoi, archive 422.

Q. Is it filed in court?

A. Not to my knowledge.

Q. Mr. Tipton, what is the document you have in your hand?

73 A. Archive 422.

Q. Is it the Spanish document about which you have testified?

A. Yes, sir; in connection with the grant to Juan Lucero de Godoi.

Q. Have you examined the signatures upon it?

A. Yes, sir.

Q. Will you say whether it is the genuine signature of the granting officer or not?

A. In my opinion it is, sir.

Q. Do you know where the property is located alleged to have been granted by the instrument?

A. I am able to form an idea from the recitals in the document itself.

Q. Are you familiar with the topography of this city?

A. Yes, sir.

Q. Have you had any experience as a surveyor in the survey of private land claims?

A. Not much in surveying private land claims; but in surveying public lands I have.

Q. Do you know the topography of this country where the lands are situate?

A. Yes, sir.

Mr. FISKE. I desire to ask a few questions. This is simply to qualify you as an expert. Have you ever assisted in the survey of a private land claim at any time?

A. Yes.

Q. Where?

74 A. On the Canon de Chama grant, somewhere about seventeen years ago, I think.

Q. In what capacity?

A. As a chainman and deputy surveyor.

Q. Have you anything more than an indefinite idea of the boundaries given in that grant?

A. I do not think anybody could locate it by this document, without assistance.

Q. Have you with that document attempted to find the boundaries on the grant?

A. No, sir; I have not.

Mr. FISKE. I submit, your honors, that this is not sufficient to warrant him in testifying where it is on a mere general knowledge such as we all have of the location of the objects; and he says himself that it would be difficult to locate it, and he had never attempted it.

The COURT. Answer the question.

Mr. FISKE. We will reserve an exception.

Q. (Mr. REYNOLDS.) I will get you to state whether or not the whole or any part of the property described in that grant conflicts with the boundaries of the Santa Fe grant claimed in this court.

Mr. FISKE. We object for the reasons stated.

The COURT. Objection overruled.

Mr. FISKE. Please note an exception.

A. My reason for stating that I believe that at least a portion
75 of this grant conflicts with the grant to the city of Santa Fe is that in the papers themselves there is a recital that the agricultural lands within the grant run from a road going from Santa Fe to the pueblo of Tesuque, and I know of no road nor any way in which a road could run from Santa Fe to Tesuque, except by making a very unusual detour, by which land bordering on that road would not necessarily be in conflict with the city. That is the reason I think this grant must necessarily conflict with the grant to the city.

Mr. FISKE. I renew that objection, after that statement. There is another road to Tesuque—there are two roads; one used by the Indians and another by others. Now, it might touch that road anywhere between here and Tesuque and not come within miles of the grant.

Mr. REYNOLDS. I have the opinion of the witness; they can show to the contrary if the opinion of the witness is not well founded in fact and law.

The COURT. That presents a question of fact to be determined on the whole of the testimony.

A. There is another matter to be taken into consideration. The petitioner in asking for the land states that they are about two musket shots from the town.

Q. Is that instrument one of the original archives in the surveyor-general's office?

A. Yes, sir; it is.

Mr. REYNOLDS. Now, if your honors please, I will offer in evidence this document and translation thereof.

76 Mr. FISKE. We make objection because it is not proved to have anything to do with the case, the only proof being that it is within two "musket shots," not showing what kind of musket shots, or the distance, or anything in reference to it.

The COURT. The document may go into the record.

Mr. FISKE. Please note an exception to the ruling.

Q. (Mr. REYNOLDS.) What is the other document you have, Mr. Tipton?

A. This is Archive 423, the one to which I referred in testifying about the Antonio Lucero de Godoi grant.

Q. What will you say now with reference to the location of the property described in that grant?

A. In my opinion, the property described in this grant conflicts with the land claimed by the city of Santa Fe. My reasons for believing that are somewhat similar to those I expressed in reference to the other grant. The recitals in the document itself show that the eastern boundary of the land is a trail going to the pueblo of Tesuque, whereas the western boundary of the land is the grant described in Archive 422, and is referred to as the lands of Juan Lucero de Godoi. It says, in the direction toward the river. It mentions the lands of certain parties, but I know nothing about these parties, and was not guided by that in my opinion at all, and suppose it is not necessary to mention it.

77 Mr. FISKE. Is there anything to indicate whether that lies north or south of the city beyond the fact that it is on the trail to Tesuque?

A. Yes; this reference bounded on the south; but the context shows that the south is the direction towards the river.

Q. (Mr. FISKE.) Well, now, does it show anything to indicate there at what point on the earth's surface it lies, either outside or inside the town's limits?

A. Not to my knowledge; no.

Mr. REYNOLDS. Is that document an archive?

A. Yes, sir; it is.

Q. What is the archive number?

A. 423.

Mr. REYNOLDS. I offer that in evidence, together with translation thereof.

Mr. FISKE. We object to the introduction of that document, because it does not appear to touch the town of Santa Fe or have anything to do with this case, and because the same is immaterial, incompetent, and irrelevant.

The COURT. It will be admitted.

Mr. FISKE. We reserve an exception.

Q. (Mr. REYNOLDS.) What is the next document you have, Mr. Tipton?

A. This document is designated in the files of the surveyor-general's office as number 2 in private land claim file 4. It is a grant. I have testified to what it was before. It is the grant to the cienega, of August 20th, 1715.

78 Q. What is it? Please state what it is. I want to identify the document? What document is this?

A. It is a grant made on the 20th of August, 1715, by Governor Mogollon to the cabildo of Santa Fe for a portion of the property known as the cienega.

Q. I will get you to state whether or not that lies within the four square leagues?

A. Yes, sir; I think it does. It lies within a hundred feet of this building.

Q. Are the signatures to that instrument genuine?

A. Yes, sir; in my opinion they are.

Mr. FISKE. In your search in the archives did you find any paper by which that grant was annulled by the same Government?

A. No, sir; my attention was called to this paper.

Q. (Mr. FISKE.) Will you look at the recitals of that grant in the first portion of it there or anywhere else in the grant papers? Does it state what it had been made for or what it had been used for previously?

A. Yes, sir; it states that it had been used for cutting hay for the use of the people of the town, I think. It states here that the land had formerly been used by the residents of the town for the purpose of cutting hay.

Q. (Mr. FISKE.) By the inhabitants, and this grant purports to make it to the corporation?

A. Yes, sir.

Q. (Mr. REYNOLDS.) What was the cabildo, Mr. Tipton? I
79 offer the instrument together with translation.

A. It was, as I understand, the municipal body of the town.

Q. (Mr. REYNOLDS.) What is the next document?

A. Archive number 85, to which I have referred. It contains a grant made in 1728 to Juan Leon Brito.

Q. Has that been filed in the court?

A. It has not, to my knowledge, sir.

Q. What is the paper you have?

A. This is one of the papers in Archive 85.

Q. Are the signatures genuine?

A. It is not an original document; it is a certified copy of the document.

Q. Well, does it form a part of the archives?

A. Yes, sir.

Q. Where is the property described therein located?

A. It states that its lies east of the Pecos road and between two acequias, which were used for irrigation by Captain de Vargas; and in the trial of the de Vargas case there was some testimony taken by the court in reference to the location of this. It came up, incidentally, in reference to the other case, and from that I form my opinion that it must partially, if not entirely, be within the Santa Fe grant.

Mr. REYNOLDS. If your honors please, I offer that document, together with translation.

Mr. FISKE. We object, on the ground that there is no testimony showing that it touches the Santa Fe grant anywhere, and that the testimony is incompetent as given.

80 Q. What is the next document?

A. The next case is that of the Talaya, or Manuel Trujillo grant, reported number 69, in the surveyor-general's office. It is suit No. 116 in this court.

Mr. REYNOLDS. I don't want that. I want only documents for which no suits are brought.

Q. What is the next document?

A. The Luis de Armenta grant; is reported number 68 in the surveyor-general's office; made in 1732.

Q. Where is it located?

A. According to the survey made of it by the Government, it is located within the Santa Fe grant; but there is no suit for it in this court, to my knowledge.

Q. Are the papers archive papers?

A. The original—the Spanish document—is not an original, but is a certified copy of the original in 1733 by Governor Anza.

Q. You have had occasion to examine the instruments, have you?

A. The signature of Governor Anza is this—the only one on there but the witness.

Q. Do you know about where it is located with reference to the calls of the grant itself?

A. I can only form an idea of it approximately; but it has been surveyed and is within the Santa Fe grant.

Q. That is the place where the house of John H. Knaebel is located?

A. Yes, sir.

81 Mr. REYNOLDS. I offer that archive number in evidence, with translations.

(No objection is stated by counsel.)

Q. What is the next document you have, Mr. Tipton?

A. Archive number 180, in the surveyor-general's office. It is a grant made by Governor Mendoza on the eighth of August, 1742, to Gregorio Crespin. These lands are described in the petition as being north of the lands of Captain Sebastian de Vargas, east of the lands of Juan Felipe Rodrigues. The lands of Juan Felipe Rodrigues are claimed to be situate within the grant claimed by the city of Santa Fe, and the lands of Captain Sebastian de Vargas, if they refer to those which have been confirmed by this court, conflict with the city of Santa Fe, and if they refer to other lands of De Vargas, brings it farther within the limits of this grant.

Q. Then you say it must lie within the four leagues?

A. Yes, sir; it must, at least partially.

Mr. FISKE. Does not that grant say that it is bounded on the north by the lands of Sebastian de Vargas?

A. Oh, I am mistaken; yes. No; I am wrong about that.

Q. It is south of the De Vargas grant?

A. No, sir; I do not think so, because the other recitals make that impossible. The lands of Rodrigues lie within the Santa Fe grant, and if the lands of De Vargas referred to were the lands confirmed by this

82 court, of course that would throw it outside. De Vargas had other lands beside that grant. These other pieces were situate nearer this town.

Q. (Mr. FISKE.) The lands of de Vargas, as established by the decree of this court—if those are the lands referred to, then it would be entirely outside?

A. Yes, sir. But in the actual possession, where the alcalde placed the party in possession of the lands, he states that this grant is bounded on the north by the "camino real de los carros." I have never seen any road coming into Santa Fe referred to by that name, other than the road we commonly called the Cerrillos road, and it is the one which I recollect as being referred to in these old documents, in this vicinity, as the wagon road; that road runs past the Indian school.

Q. (Mr. FISKE.) Do you know whether this boundary referred to, leading from Santa Fe to the Alamo—do you know where that is?

A. I only know as a matter of common repute here among the people. I think I have seen references in the archives here that are more convincing as to the Alamo road; but I have no doubt it went out of the city of Santa Fe and in a southwesterly direction.

Q. But exactly where it went, you do not know?

A. A great many people call the Alamo road the road we now call the Agua Fria road; but there is another road south and east of that sometimes called the Alamo road. Whether it was so called at that time, I can not state.

83 Q. Do you know where it was this Alamo road went to?

A. No; I do not know what place. It refers to it, probably.

Mr. REYNOLDS. We offer the document in question in evidence, together with translation.

Mr. FISKE. I make the same objection as to the other.

2. (Mr. REYNOLDS.) From the entire instrument and your knowledge of the topography of the country, as well as common report as to the existence of this road and these localities, state whether or not, in your opinion, that grant is situate within the four leagues?

Mr. FISKE. Objected to, as asking the witness's opinion.

The COURT. You may answer the question.

Mr. FISKE. We except to the ruling.

A. In my opinion, it must necessarily be partially situate within.

Q. What is the next instrument?

A. Archive number 24, in the surveyer-general's office, is a grant made by Governor Mendóza, the twentieth of August, 1742, to Juan Jose de Archuleta, for a tract of land, which the petitioner states is about one-fourth of a league from Santa Fe, and south of the highway coming to that town, and north of the road commonly called the wagon road, which is the camino de los carros to which I have referred.

Q. I will get you to state whether in your opinion that land
84 lies within the four square leagues in whole or in part.

Mr. FISKE. We object, as the witness has not qualified himself to answer that question.

A. I base my opinion that it is within on the recital that it is about one-fourth of a league from Santa Fe. If that is correct, it is necessarily within the four leagues of the city of Santa Fe.

Mr. FISKE. If it is a quarter of a league away from Santa Fe, that evidently means the Santa Fe grant, does it not? It don't mean the center of the town?

A. It says from the town; it does not say anything about the grant.

Mr. FISKE. My objection is that the papers speak for themselves.

Q. Does the wagon road coming into the town or four square leagues pass through it?

A. Yes, sir; it comes into the town of Santa Fe.

Q. What direction does it run coming through the town?

A. Coming this way it runs in the direction, I should think, about east-northeast.

Mr. REYNOLDS. I offer that document in evidence, together with translation.

Mr. FISKE. Same general objection, that it is incompetent and does not describe any land within this grant, and that it is immaterial.

Mr. FISKE. To save time, if your honors will permit, we will
85 make the same objection to all this, that it is irrelevant, incompetent, and immaterial.

The COURT. The same objection will be regarded as applying to all of them.

A. (Continued.) The only other grants to which I find any reference in the archives, with the exceptions of these filed here as suits, are a number of grants referred to in a book in the surveyor-general's office, known as the book of the cabildo. This book is a book of memoranda as to grants which were presented to the cabildo, in order that note might be made of them in its archives; and, judging from decrees in the surveyor-general's office of about that time, it would appear that these entries were probably made in accordance with a decree issued by Governor Mogollon, in 1713, requiring all persons who had original instruments of grant, wills, deeds, and instruments of that character to present them to the cabildo, in order that they might take certified copies of them and leave the originals in the archives.

Mr. FISKE. Have you that book? Can you produce it?

A. (Witness produces book.)

Mr. BARTLETT. What cabildo is that, Mr. Tipton? What does it purport to be, this record?

Mr. REYNOLDS. Mr. Tipton, refer to that decree of Mogollon.

A. The original is downstairs. It was in 1713.

86 Mr. REYNOLDS. First, we offer in evidence the original decree of Governor Mogollon, July 21, 1713, together with translation of it, requiring the presentation of all grants to the cabildo.

Q. (Mr. REYNOLDS.) Mr. Tipton, identify the instrument you have before you.

A. This book is a paper belonging to the surveyor-general's office, manuscript, detached leaves, and it bears a title, which I translate in this way: Book of the cabildo, in which note is made of grants of lands and house lots made by the governors from the Marquis de la Nava de Brazinas to Señor Don Juan Ygnacio Flores Mogollon, who is the present governor in this kingdom of New Mexico for the King, our Lord, &c. On the last page of the book there is this language, over the signature of Juan Paes Hurtado: All the grants that appear in this book, of which note has already been made, have been presented before me, General Juan Paes Hurtado, alcalde ordinario of this town of Santa Fe, where this is done, on the twenty-eighth day of December, 1713, and I signed it. Juan Paes Hurtado.

Q. (Mr. REYNOLDS.) Is that one of the records and archives of the surveyor-general's office?

A. Well, it does not bear any archive number. It is a record in that office, but it never appears to have had a number given it.

Q. Is the signature to the conclusion of it genuine?

A. In my opinion, it is.

Q. It is now in the custody of the surveyor-general of this

87 Territory?

A. Yes, sir.

Mr. FISKE. It seems to be a genuine document; I have no doubt of it.

Mr. REYNOLDS. I offer this document. I do not care to translate everything in it. I offer it for all purposes so far as this court is concerned, and the parts I want to use Mr. Tipton will designate now.

A. (WITNESS.) There is an entry in this book, to the effect that Diego Marquez de Ayala presented a grant for two fanegas of corn-planting

land and two of wheat, with a house, lot, and garden, which grant was made by Governor Mogollon on March 11, 1713, the lands lying south of the river, and bounded on the north by the acequia madre. The description in the entry leads me to believe that these lands must necessarily have been within the four leagues now claimed by the city of Santa Fe. Another entry states that Francisco Martin presented a grant for one fanega of corn-planting land, which grant was made to him by Governor Cubero on March 6, 1703, in the royal lands on the other side of the Santa Fe River. The boundaries of the land are—on the east, the wagon road; on the west, royal lands; on the north, lands of Felipe Pacheco; and on the south, lands of Maria de Tapia. The Felipe Pacheco lands, which are recited as the north boundary of the lands of Martin, are claimed to be situate within the four leagues claimed by the city of Santa Fe, and suit has been brought for them in this court,
88 in suit number 192. If the Pacheco lands be situate where they are claimed to be in the plaintiff's petition this land which joins them must of necessity be at least partially within the grant claimed by the city of Santa Fe.

Another entry states that Maria Zapata presented a grant made by Governor de Vargas—no date is referred to, however—to Captain Jose Talles Jiron, being a piece of lands in the town of Santa Fe, adjoining the lands of Juan Lucero de Godoi. The lands of Juan Lucero de Godoi are the first ones to which I referred to-day in my testimony and are described in Archive 422. The recital in these documents shows that the lands were within the town of Sante Fe; consequently they must be in the grant claimed by the town, which includes the town.

Diego Duran is said to have presented a grant made to him on the twenty-ninth of August, 1713, by Governor Mogollon, for a house, lot, and garden adjoining the church in Sante Fe and for a piece of tillable land on the margin of the cienega.

Captain Ygnacio de Roybal is said to have presented a grant on the seventh day of September, 1713, which grant was made to him on the sixteenth of February, 1698, by Governor Cubero, for a house and lands which he had in the town of Sante Fe.

On October 17th, 1713, Sebastian Gonzales is said to have presented a grant made to him by the Marquis de la Nava de Bruzinas on the
89 eighteenth day of January, 1704, for lands on the river adjoining the lands of the convent.

On December 13, 1714, Diego Lucero is said to have presented a grant made to him by Governor Cubero, on the 30th of July, 1697, in the town of Santa Fe. There is some recital in this entry that would seem to indicate that these lands are the same as are referred to in Archive 423, being a grant to Sntonio Lucero de Godoi, but this is not proved certain. These are the only entries in this book of which I have made note, as referring to land probably situate within the lands claimed by the city of Santa Fe.

Mr. REYNOLDS. These are the entries to which we will desire to refer specifically, although we offer the document in evidence.

Q. (Mr. FISKE.) These notes you have taken are taken from this document?

A. Yes; they are not a translation, but state the substance of the entries.

Q. (Mr. FISKE.) If the original paper differs in any way from such notes the original paper is right and you are wrong?

A. Certainly.

Q. (Mr. BARTLETT.) Are the boundaries to these grants set out?

A. In some cases the boundaries are mentioned; in others there are simply statements that the boundaries appear in the original instruments which were presented to the officer. In those to which I have referred I think there is some boundary mentioned to enable me to form
90 an idea; but the paper shows.

Q. (Mr. PURDY.) And pursuing the same line, I will ask you if you have reported number 89—papers in reported number 89?

Mr. REYNOLDS. If this is cross-examination, I want to close the Government's case. I don't deem it necessary to have any of these other claims given, for the reason that they are set up in other suits.

The following evidence was thereupon introduced by Mr. James H. Purdy, counsel for conflicting claims, the same being offered both for the securing of confirmation of the said claims as against the United States, and as defense and antagonistic to the grant claimed by the city of Santa Fe.

W. M. TIPTON, having been formerly sworn in all of the cases in question, and being examined by Mr. Purdy in the case of the Talaya hill grant, testified as follows:

JACOB GOLD ET AL
vs. } Talaya hill grant. No. 116.
THE UNITED STATES.

Q. Do you find an act of possession in the Talaya grant case No. 116? To expedite the case here I propose to go on the same line of examination, asking in each of these cases the muniment on which the claim
91 is based, and to show its location, or try to show its location, within the four leagues.

Mr. GILDERSLEEVE. Do I understand Mr. Purdy to open his case affirmatively now?

Mr. PURDY. Yes, sir. I propose to go through these eighteen cases, to show whether or not they are in the four leagues, and refute the presumption of a grant of four leagues including these eighteen claims. First, to run through briefly, taking up the muniments in each case, then coming back and taking up the trial in each case.

Mr. FISKE. We desire to object to that. That will tend to confuse each one of these cases. It seems to me that each case can be put in by itself, and Mr. Tipton can be asked as to the original papers.

The COURT. Go on, Mr. Purdy.

Q. (Mr. PURDY.) Have you a paper in reported number 89, dated 1731, purporting to be the act of possession, signed by Diego Arias de Quiros as special justice?

A. Yes, sir.

Q. Please state what that paper purports to be—whether it is an archive or whether it is a paper filed in that claim, that was presented, to the Talaya grant.

A. Well, judging from the marks upon it, I would be of the opinion it was a paper that came from private hands into the surveyor-general's office. There is nothing to indicate that it was one of the old archives.

92 Q. At what time does it seem to have been filed in the surveyor-general's office?

A. It bears no mark of the date of filing.

Q. Reported number 89, there before you; does that show when this paper was filed in the case?

A. No, sir; I don't think anything but the docket would show that in the surveyor-general's office. It was not a custom there to endorse in individual papers the date of filing.

Q. In that number, 89, have you not a report of the surveyor-general on this claim?

A. Yes, sir.

Q. Is anything regarding this paper recited in that report?

A. I see no reference to the date of its filing, sir.

Q. What is the date of the report?

A. April 13th, 1874.

Mr. PURDY. This is simply to show that as early as 1874 this paper was filed here in the case. Will you examine the paper and say whether or not you have any familiarity with the signature of Quiros?

A. I have seen his signature on various documents in the surveyor-general's office.

Q. What is your opinion as to the genuineness, if you are sufficiently familiar as to express an opinion, of these three signatures?

A. I see no reason for doubting their genuineness.

Mr. PURDY. I will simply say this paper purports to be the original act of possession given for the Talaya grant in 1731, giving the

93 possession to the grant as described as follows.

The COURT. Simply introduce the original and file a translation, Mr. Purdy.

Mr. PURDY. This is simply to show the boundaries; that the boundaries are on the north by the river, on the east with the mountain called the Talaya, on the west the deep arroyo in front of the furnace, together with the principal acequia madre, and on the south the aforesaid deep arroyo. I will ask, Mr. Tipton, whether from the description and the boundaries given in this paper you can locate this land?

A. I don't think from the description of the land that it could be located with perfect accuracy. A person in order to locate it absolutely and scientifically would have to have more information than is contained in the document itself. The mountain referred to is a well-known landmark east of here and south of the Santa Fe Creek.

Q. Within the four leagues claimed by the city of Santa Fe?

A. I think the foothills of the mountain may be within that distance, but its top, I think, is not. I think it is beyond.

Q. Do you know whether or not the surveyor-general—United States surveyor-g'neral—had this claim surveyed?

A. Yes, sir; it was surveyed.

Q. Is there a copy among these papers?

A. No, sir; not that I know of. There is a plat in the surveyor-general's office.

94 Q. Do you know where the survey of this land grant claim is located?

Mr. FISKE. We object to that question.

Mr. PURDY. I offer in evidence here a copy—substantially a copy, a tracing of the United States survey, made by the surveyor-general, of this claim.

Mr. FISKE. This does not appear to prove survey at all. These surveys were made out here by deputy surveyors.

The COURT. You will have to produce the survey itself.

Mr. PURDY. I offer this archive in evidence in this case, to show the disposition of the property by the family of the alleged grantee, archive number 858, dated 25th of October, 1756, being deed from Fernando Romero to Felipe Sandoval. The description of the property herein conveyed by Fernando Romero, the son-in-law of the grantee, is a piece of corn-growing land which is up the river from the city of Santa Fe at the time, and measures east and west one hundred and fifty varas, and below at the west end there is one hundred and forty-one varas north to south, bounded on the east by an arroyo coming down from the mountain and by lands of Marcelo Trujillo, on the west by a big arroyo and some tall pine trees in said arroyo, on the north by the river of said city, and on the south by a little acequia that crosses said land and by the land of the grantor.

95 Mr. FISKE. We desire to object to this as irrelevant, immaterial, and not describing the land in question.

Mr. PURDY. I offer in evidence Archive 41, of date 1767, which is a conveyance from Marcela Trujillo, daughter of the grantee, Manuel Trujillo, to Ynez Apodaca of a piece of land. I have not the translation. I have not had time to have all these papers translated, and I will ask Mr. Tipton to kindly give so much of the description of the land as may therein appear.

Mr. FISKE. We make the same objection, that it is immaterial, irrelevant, and has nothing to do with the land in question.

Mr. PURDY. Well, I ask leave to file a copy and translation of this in triplicate later. That is all the documentary proof which I have to offer, excepting Exhibit Number Four. I offer a paper—this is a copy—which I will explain later on.

(Mr. Purdy here read at length from Exhibit No. 4.)

Mr. PURDY. This is a copy which I received from one of the complainants in this case of Jacob Gold, case number 116, whose testimony—I will presently have him here as a witness, and he will also show how he obtained it. It is of date 1743. I expect to show that the original existed, in the hands of these claimants, and has been mislaid or lost. It is not certified; it is simply a copy in the handwriting of Louis

96 Gold, who had it some twenty years ago, and who was interested to a small extent in this property as legal representative.

Mr. REYNOLDS. I shall object to the introduction of the copy for the reason that it is not competent to prove secondarily the existence of the deed for the land conveyed. I also object to the introduction of the witness for proving the loss, because that will not make the copy competent evidence, unless the witness made the copy from the deed itself.

Mr. BARTLETT. We desire to make the same objections.

Mr. PURDY. I offer in evidence map, as exhibit number seven, showing what we claim now as boundary. The survey was made, a copy of which was put in evidence yesterday by the United States surveyor-

general, a preliminary survey, the eastern line of which follows the foothills or follows the base of the Sierra Talaya. We ask that our claim shall go to the crown of the ridge—to the ridge of the mountain instead of to the base.

Mr. BARTLETT. Does this conflict with your evidence of yesterday in regard to the survey?

Mr. PURDY. No conflict; that is supplementary—cumulative. That completes my documentary testimony. This map, number seven, I have put in to show all the land we are claiming.

97 CANDELARIO MARTINEZ, called as a witness by Mr. Purdy, on behalf of his clients in the case under consideration, that of the Talaya grant, No. 116, both in chief and as defense to the city of Santa Fe grant, being duly sworn and examined by Mr. Purdy, testified as follows:

Q. Please state your name and residence.

A. My name is Candelario Martinez; residence, the city of Santa Fe.

Q. Are you one of the claimants, one of the complainants, in this suit?

A. Yes, sir.

Q. Are you interested in this subject-matter of this suit, the land claimed as a grant to Manuel Trujillo, and how?

A. Yes, sir; by inheritance.

Q. Do you live upon the land?

A. Yes, sir.

Q. Upon what part of it?

A. East of the city three miles.

Q. At what point or place on the land do you live?

A. On the land on the east side.

Q. What place?

A. Three miles east of Santa Fe.

Q. Do you live anywhere near the reservoir?

A. Yes, sir.

Q. Do you own a house there?

A. Yes, sir.

Q. Cultivate lands there?

98 A. Yes, sir.

Q. How long have you lived there?

A. I lived there myself all my lifetime, with the exception of sometimes I removed from .

Q. You say you claim interest by inheritance?

A. Yes, sir.

Q. What was your father's name?

A. Lorenzo Martinez.

Q. How many children had he?

A. Two.

Q. Who was the other one, you being one?

A. My sister, Carmel Martinez de Borrego.

Q. Is she also a claimant herein?

A. Yes, sir.

Q. Who was your father's father?

A. Francisco Martinez.

Q. How many children had he?

A. Seven.

Q. Please name them.

A. Lorenzo Martinez, my father, the oldest one; Dolores Martinez, Ysabel Martinez, Miguel Martinez, Pablo Martinez, Guadalupe Martinez, and another woman I do not remember just now.

Q. Is the said Dolores Martinez, your aunt, living?

A. She is living.

Q. And what is her age?

A. I think she was born in 1815; I think.

99 Q. Where is she living?

A. She lives about a mile from here, east.

Q. Living upon this land in question before this court?

A. I think she just lives a few feet from the line of this grant, west.

Q. Is she one of the complainants herein? What was the name of your said grandfather's father?

A. The name of my——

Q. Let me first ask you to repeat the name of your grandfather, your father's father.

A. He was Francisco Martinez, but I am not claiming on the side of the Martinezes this grant. I am claiming on my father's mother.

Q. What was the name of your father's mother, your grandmother?

A. Alejandro Ortiz mother of my father .

Q. I understood you to say, Mr. Martinez, that your father's name was Lorenzo Martinez and that your grandfather's name was Francisco Martinez?

A. Yes, sir.

Q. I ask you now what was the name of the wife of Francisco, your grandmother.

A. Guadalupe Ortiz.

Q. Whose daughter was Guadalupe Ortiz?

A. Alejandro Ortiz.

Q. Do you know whose son Alejandro Ortiz was?

A. I think it was Manuel Ortiz, that is, I know that just by

100 reputation, of course.

Q. Are there few or many other descendants than you have named in possession of this land claiming the same now living?

A. Yes, sir; there are a good many living upon the land.

Q. What would be your rough estimate of the number of descendants of Manuel Ortiz living on the land, claiming an interest therein as descendants, whether one hundred, or ten, or forty?

A. There are more than one hundred that I know of now living on the land.

Q. Do you know whether anyone of these descendants claim that land or any portion of it by any other claim than that under the grant claim?

A. Well, some of them claim the land by purchases from the heirs.

Q. Do they claim under the grant or does anyone you know of claim any title adverse to the grant?

A. Not that I know of.

Q. What is your approximate estimate of the number of people living on the grant to-day?

A. I believe there is about two hundred.

Q. About how many families are there, by estimate, in your opinion?

A. I should say there was one hundred families there.

Q. About how many dwelling houses; just a rough estimate?

101 A. I don't know; I could count them, if I could count every house.

Q. Are there twenty?

A. More than that.

Q. Are there fifty?

A. More than that.

Q. Are there one hundred?

A. I should say one hundred; more than that, probably.

Q. Where are these homes situate?

A. They are on the land in question.

Q. Are any of these houses within the Santa Fe league of land, if you know where that league of land is?

A. I never heard there ever was a—what is it?

Q. A league of land; from the monument, eastward, within a league to the east are any of these dwellings; are any of these people living within that land?

A. Yes, sir.

Q. How are these people claiming the land; by separate patches, strips, or are they all claiming it in common?

A. Well, they claim it in patches, a certain number, with the exception of a few of the heirs.

Q. How do they claim?

A. They claim by inheritance, of course.

Q. Do they claim in severalty—in pieces—or in common?

Mr. FISKE. We object to this as immaterial.

The COURT. The objection will be sustained.

102 Q. Do you know the limits of the claims of these people who claim—as you say, the heirs claim in common, as I understand, claim together; do you know the limits of that claim?

A. Yes, sir, more or less, I think I do.

Q. Please go on and state the limits of the grant, so far as you understand them to be.

Mr. FISKE. Do you mean by the limits the boundaries?

Mr. PURDY. The limits of the claim of the grant, the common claim.

Mr. FISKE. We object, because they are limited by their title paper, and it is incompetent to introduce testimony to vary or contradict it.

The COURT. The objection will be sustained.

Q. Do you know where the boundaries of the grant are? Do you know what are the boundaries of the grant claim?

A. Yes, sir, for what I have seen, of course.

Q. Please state them.

A. The western boundary is an arroyo which runs right a few feet east of where my aunts lives, called "el arroyo de la fundicion." On the east—north is the acequia madre, and goes up the river so far as to the place where the ditch should be. The acequia madre runs as far as to the

grist mill, called the Teodoro Martinez grist mill now. It was
103 the first mill built up in there I understand by the Government of the United States in 1846—and from there runs here up to the river until a certain rock, where the acequia should be dug up. On the south, arroyo de los chamisos, in the straight line; on the east cerro de la Talaya, or la sierra de la Talaya; and so far as I can comprehend, always I understand to be la Talaya in Spanish word to be the highest point or highest place you could see. That is the boundary that I know of.

Q. Are there any cerritos, lomas, hills, or mountains within the grant, to the west of what you have designated as the east line?

A. Yes, sir, there are cerritos, and I know——

Q. Please begin on the east side, and as to the hills from between the east line and the west, designate them by name and describe them. The west part of the grant, I ask, is it plain, undulating land, or is it hilly or mountainous? What is the character of the land?

A. There is some cerritos over there.

Q. Is there any plain land over there?

A. Just the other side of the cerritos there is plain land, yes.

Q. What are the first hills?

A. Those cerritos de tio Estevan, and on the other side there is some small hills, and then there are the tierra blanca cerritos.

104 Q. Please state what you understand to be the Cerro Talaya, and how far from the west side of the grant you locate the Cerro Talaya.

A. Well, I should judge this. I live from the center of the plaza, the monument, according to the survey, if I am informed right, just three miles. That is my house, three miles from here, east, and I should calculate about half a mile or three-quarters of a mile from my house east where I call it la sierra de la Talaya. That is, la sierra de la Talaya is more or less southeast of my house.

Q. Do you know a cerro called Pecacho?

A. Yes, sir; right opposite my house.

Q. Is it a part of the chain of the Sierra Talaya, or is it east or west of the Sierra Talaya?

A. It is a part of the chain; it is west of the Sierra Talaya, yes, because Pecacho is right opposite my house, because I live here right east, and Pecacho is right south of my house; and then there is another cerro called Cruz Blanca, and between Cerro Pecacho and Cruz Blanca is la sierra de la Talaya.

Q. How far east of your house do you say you call the Sierra Talaya?

A. I should say about half a mile or something like that—three-fourths of a mile. I am not a very good judge.

Q. Do you know where your father was born?

A. Yes, sir.

105 Q. Where?

A. Here in Santa Fe.

Q. Was he born upon the ground or outside of it—the land you have described; was he born on that land or elsewhere?

A. I think, according to what he told me, I think he was born just this side of the grant, where my aunts live to-day.

Q. What is your approximate estimate of the number of people living on the grant to-day?

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A. Yes, sir.

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Q. Was he born upon the ground or outside of it—the land you have described; was he born on that land or elsewhere?

A. I think, according to what he told me, I think he was born just this side of the grant, where my aunts live to-day.

Q. Do you know where his father or where his mother, your grandmother, was born?

A. His mother was born inside the grant, yes.

Q. And her father, do you know where he was born—Ortiz?

A. He was born in the same place, inside the grant, because I can show you the house to-day.

Cross-examination of the witness Candelario Martinez by Mr. E. L. Bartlett, on behalf of the city of Santa Fe.

Q. How many miles are there in a Spanish league?

A. Three miles, I think—American miles.

Q. You say this Talaya grant is about three-fourths of a mile wide from east to west, do you?

A. No, sir.

Q. How much is it from east to west?

A. I think it is about three and a half miles, or three and three-fourths miles, from east to west—no, wait a minute, if you please; no, no, no, no. I think—I think, from the center of the plaza to the western boundary is—about a mile from here, I think, where my aunt live'.

106

Q. Now, then, as you judge, it should be about one mile?

A. Well, it is about three miles, I suppose; something like that, more or less.

Q. Well, I want to know. You claim this grant to be how wide, from east to west—the Talaya grant?

A. Well, I claim it to be, from east to west, three miles.

Q. How much of that do you claim is within the Santa Fe league?

A. I think—I claim this much, that according to the Santa Fe league I hardly would claim more than three-fourths of a mile, or a half a mile above, because *because* it is three miles from the center of the plaza to my house, just exactly three miles, and from my house to the Sierra de la Talaya, I should judge, is about three-fourths mile or half a mile.

Q. You think this grant comes, then, about three-fourths of a mile into the Santa Fe league? In your best judgment, state how much the Talaya grant laps over the Santa Fe league.

A. I hardly understand that question, General.

Q. I want to know how far within the Santa Fe league you claim this Talaya grant to come; in other words, how much it conflicts with the Santa Fe league claim.

A. It conflicts three miles, of course.

Q. Well, it can not if it is only three miles wide.

A. Yes; but Santa Fe claims, you see, three miles from the center of the plaza.

107

Q. Well, I will not argue it with you. Do you know how much your grant conflicts with the Santa Fe league?

A. I think this grant conflicts one mile, if I understand the question fairly.

Q. You claim it all south of the Santa Fe River, don't you? It is all south of the Santa Fe River, is it not?

A. Yes, sir; and south of the acequia madre.

Q. The acequia madre, or the south side of the river, is your north boundary?

A. The Santa Fe River and the acequia madre is the north boundary; yes, sir.

Q. Is this Talaya you spoke of, the Sierra de la Talaya, a range of mountains or a chain, as Mr. Purdy has stated, or is it a single lonely mountain or lookout?

A. It is a range of mountains.

Q. I understood you to say that as you understood Spanish it meant the highest point?

A. That is what I understood it to be.

Q. Then, how do you say it is a range, if Talaya is the highest point?

A. Well, because you see it may be a range of mountains, and among the range there may be a high mountain.

Q. That is called a cerro, is not it?

A. No, sir; a sierra.

Q. Do you claim that as your eastern boundary?

108 A. Yes, sir.

Q. How do you get your information of these boundaries?

A. I think by the records on file in this surveyor-general's land office; but I know this from the original of this grant.

Q. Did you see the original of this grant?

A. I don't think I have seen the original or a copy, but I have seen some papers in the land office.

Q. What were the original papers you saw from which you got these boundaries in the land office?

A. I don't remember the papers, but——

Q. Describe them; what were they?

A. Papers on file in the land office and also——

Q. Can you tell what kind of papers they were? Did you see the petition for this grant and the act of the governor granting it?

A. I don't know if I have or have not, but I think I have.

Q. When did you see those papers?

A. The first time I saw those papers, or some kind of an abstract, it was in the office of Mr. Laughlin, I think.

Q. Well, I am talking about these original papers which you say you saw in the surveyor-general's office. I want to know what these original papers were and when you saw them.

A. I did not say I saw them; I say I think I saw them there, but the first abstract I saw in the office of Mr. Laughlin, and then I saw some papers in regard to this——

109 Q. When did you first learn about this grant, that you were interested in it?

A. I say that I knew all this since I had the use of reason.

Q. How?

A. Because I inherited the land where I live from my father. He inherited it from his mother, and he bought the land, part of it, from his brothers, cousins, and so on, and also because he showed me, which still is there in my house, used to call my torrion, and he used to tell me his grandmother and grandfather lived there, Alejandro Ortiz, and I know from these resources, and also we had a list he had his documents, I think, the deeds from his cousins and brothers, from whom he bought the land, but in 1864 our house catched fire and burned everything. That

was Saturday night, was Christmas night, I think, and we come down to town and the house catch fire and burned up everything with it, and that is why I know about it.

Q. I am asking you how you knew of this grant—how you got your first information that you claimed under this grant—knew that there was a grant? The first information you got of this was an abstract of some papers in Mr. Laughlin's office, was not it?

A. The first time Mexican people began to know that there was grants in New Mexico was the time about twenty years ago, or more than twenty years ago, when speculators began to buy from the Mexican people
110 pieces of land, or their rights to grants, and, more or less, I should say that about twenty years ago I knew that there was a certain grant known as La Talaya grant. That I know. I hardly think there is anybody of my people knew anything about it until the speculators in land grants began to buy land and began to give them nothing for it, and the first time I knew; I should judge it was twenty or twenty-five years ago that I knew that land in La Talaya grant.

Mr. REYNOLDS. This place you call Talaya, is not that just as well known as Pecacho as the mountain called Pecacho?

A. No, sir.

Q. It is not?

A. No, sir; Pecacho; always I heard that hill over there called Pecacho; never heard it called Talaya.

Q. Is not Talaya a little to the east and south of Pecacho?

A. Yes, sir.

Q. It is a well defined mountain, is it not?

A. It is the highest hill you see on the range.

Q. Yes; and it is a well defined one, too, isn't it?

A. Yes, I think so; it is a well defined hill or mountain.

Q. The highest peak lying east and south of Pecacho is what you call Talaya?

A. Yes; in other words, should say southeast.

111 Q. (Mr. PURDY.) What is the general direction of that range, la Sierra Talaya?

A. North south.

Q. From north to south?

A. Yes, sir.

Q. How far do you say that range is to the east of your house—about how far?

A. I said about half a mile or three-fourths of a mile; something like that.

Q. Where is your house located with respect to the reservoir?

A. Right at the upper end of the reservoir.

Q. With respect to your house, where is this Pecacho hill?

A. It is south—a little south, below; it is south; Pecacho is south.

Q. Is Pecacho a range of mountains, or is it a single mountain or hill?

A. Pecacho is a high peak. You call in English peak, and we call Pecacho.

Q. Is it a separate peak from Sierra Talaya?

A. Yes, sir.

Q. About how far distant is it from Sierra Talaya?

A. I should say about half mile or three-fourths mile, I should think. It is not an arroyo, but a cañon; a cañon divides Pecacho from the Sierra de la Talaya and Cruz Blanca. It is a very big, high cañon; I
112 should say it is. The cañon is from the Pecacho. The top of this Pecacho and Sierra Talaya, I should say, is about fifteen or two thousand feet.

Q. What is the distance from Pecacho Peak to Sierra Talaya?

A. I said about half or three-quarters of a mile.

Q. You spoke of Cerro Tierra Blanca; where is that cerro, with reference to Pecacho?

A. South of it. Cerro Cruz Blanca, it is.

Q. How far is this Cerro Cruz Blanca from Sierra Talaya?

A. Just about the same distance Pecacho is, because Pecacho is north and Cruz Blanca is south, and then there is a big cañon, and across the cañon is the Sierra de la Talaya.

Q. What distinction do you make in Spanish between cerro and sierra?

A. Sierra is a mountain and cerro is a small hill.

Q. Haven't you another word for small hill?

A. Loma and cerrito.

Q. Which is higher, a loma or cerro?

A. Just about the same.

Q. Which is higher, a cerro or sierra?

A. Sierra is a mountain, of course.

Q. Have you another word to describe the highest of all mountains than sierra; or do you describe the highest mountain by the word sierra—or do you call it cerro sometimes?

A. I don't know if I have—how I should call them. Cerro is one thing and sierra is another thing.

113 Q. Is a sierra higher than a cerro?

A. Certainly it is.

Mr. FISKE. How long have you known that mountain out there as the Talaya by that name?

A. I don't know how long I have.

Q. (Mr. FISKE.) Have you known it ten years?

A. I don't know if I know; more than forty-five, probably. Of course I am forty-nine years of age, and I say that that place which I call Talaya under this claim——

Q. Well, I don't want that; I just want to know how long you have known that mountain which you now call Talaya—how long you have known that mountain by that name.

A. I can hardly say if I have known that mountain fifteen days ago. I cannot say positively.

Q. Then, while you have known the mountain, you did not know any name for it?

A. Yes, sir; I know a name for it; yes, sir.

Mr. PURDY. What did you say you understood to be the south boundary of this grant?

Mr. FISKE. We object. The grant shows that the south boundary is.

Objection sustained.

114 MANUEL RODRIGUEZ Y ORTIZ, called as a witness on behalf of the case No. 116, of the Talaya grant, in chief, and by way of defense to the case of the city of Santa Fe, being duly sworn and examined by Mr. Purdy, testified as follows:

Q. State your name, residence, and age.

A. My name is Manuel Rodriguez y Ortiz; I live at Santa Fe; and am seventy-eight years old.

Q. How far from the plaza do you live?

A. (INTERPRETER.) You mean the center of the plaza?

Q. The monument in the center of the plaza.

A. A mile and a half.

Q. In what direction?

A. In that direction that you call the Atalaya.

Q. Do you live on what is sometimes called the Talaya grant?

A. No, sir.

Q. Do you know any piece of land called the Talaya there?

A. I have not seen a grant. What I know is what I have heard.

Q. Have you ever heard of the Talaya grant?

A. Yes.

Q. Do you know whether or not you live within the land which has been called the Talaya grant?

A. And I also know one Louis Gold had it.

Q. Do you know where Candelario Martinez lives?

A. Yes, sir.

Q. Which direction do you live from Candelario Martinez?

A. May be it is also a mile and a half to that place.

115 Q. Which direction from Candelario's house is your house?

A. It is below. He lives above and I live below.

Q. Which side of the Santa Fe River do you live—on the north side or the south side?

A. On the south side.

Q. What was your father's name?

A. Nicolas Rodrigues.

Q. What was the name of your father's mother?

A. I don't know. I did not hear

Q. Did your father have a brother by the name of Juan Rodrigues?

A. No, sir.

Q. What is the name of your mother?

A. Maria del Rosario Ortiz.

Q. What was the name of her father?

A. Alejandro Ortiz.

Q. Do you know what was the name of the father of Alejandro Ortiz?

A. Yes, sir.

Q. What was it?

A. Manuel Ortiz.

Q. Did Manuel Ortiz leave any will?

A. The other Manuel Ortiz, my great-grandfather, did; that is the one which I have.

Q. Have you Manuel Ortiz's will here with you?

A. No, sir; it is at home—the will of my great-grandfather.

Q. By what title do you claim the house and lands where you live?

116 A. No, sir; I do not claim.

Q. Do you own any house or land in this country?

A. Yes, sir.

Q. Where you described that you live?

A. Yes, sir.

Q. By what title or how did you acquire the ownership to that house and those lands?

A. Because my grandmother sold them to me.

Q. Please answer whether or not your grandmother bought or whether she sold.

(Some dispute here arose among the attorneys as to whether the witness, speaking in Spanish, had said sold or bought.)

Q. Did your grandmother buy these lands or did she sell them? Which was it?

Mr. FISKE. We object to the form of the question, and would suggest that the witness did not undertake to answer that his grandmother either bought or sold, but that he bought himself?

A. My grandmother bought the lands. My grandfather bought them, and also my grandmother—they were together.

Q. Do you know from whom they bought these lands?

Mr. REYNOLDS. I object, because that is not the proper way to

117 show chain of title, by the oral testimony of the witness, unless the deed is lost.

Mr. PURDY. Introduce the testimony, first, to show that the witness is living upon this land within the league—as to the location of this within the league; second, that he is a claimant of land within the league; third, that his ancestors acquired this land, not by grant direct, but by purchase; and lastly, I sought to learn from the witness if he knew exactly from whom these ancestors purchased these lands, and he says he does not know.

A. I do not know.

Mr. REYNOLDS. I object to it, so far as it undertakes to show acquiring of title on his part, by this class of testimony.

Cross-examination of said witness, on behalf of the city of Santa Fe, by Mr. FISKE:

Q. How long have you lived in Santa Fe?

A. I was born here and here is my native country.

Q. Do you know the extent of the Santa Fe grant as it is generally recognized by the people here?

A. (Witness makes a confused and mumbled answer and the interpreter says it is impossible to translate it.)

Q. Do you know how many leagues are recognized to be in the Santa Fe league, whether one league or more?

Mr. REYNOLDS. We object. It is not shown that the witness knows anything about it.

118 A. Yes, sir; they said it was in that direction, the Arroyo de los Chamisos, and in the other direction the summit of the divide between here and Tesuque.

Q. That has been the claim of the people here to your knowledge since you can remember?

A. Those were the directions that I heard people say.

The INTERPRETER (Mr. Chacon). I am inclined to think he means by the word "directions," boundaries.

Q. Do you live within the Santa Fe grant, as the people have understood it here, since you can recollect?

A. Yes, sir.

Q. How far does it run beyond where you live—the league from the town?

A. No, sir; it is there.

Q. Above you?

A. Yes, sir; somewhat above me.

Q. How far, as recognized by the people, does it run out in this direction towards Tesuque?

A. I think it is one league.

Q. And how far does it run to the south, as was recognized?

A. I cannot remember, but I think it is one league and one mile.

Q. Does it run to the same distance to the east of the plaza?

A. I think so.

Q. Is that the way it has been recognized here by the people since
119 you can remember, as you have described it by these boundaries?

A. To the summit of the mountains here; that is the way I have seen it, and the places where they say the boundaries are now. I also went there, or walked over, at the time of the Mexican Government, and also the boundaries of what is now the county of Santa Fe. Under the Mexican Government the boundaries of this town were one league from the plaza each way. I think it was a league and one mile.

Q. Were the boundaries under the Mexican Government, as you have described them, well known to the people here?

A. Yes, sir; all of it.

Redirect examination by Mr. PURDY:

Q. What is the land of which you have been giving the boundaries?

A. I do not know.

Q. Are they the boundaries of the county of Santa Fe which you have been speaking of?

A. No, sir; the boundaries are there.

Q. What boundaries have you been describing?

A. I, now, I have been speaking of the directions; they were here.

Q. Where did your mother die?

A. She died here.

Q. How far from where you now live?

A. Somewhat near—I do not know. At a place where I had a sister of mine.

120 Q. Where did your father die?

A. He also in the house where he lived.

Q. Was that the one where you now live?

A. Yes, sir.

Q. Do you know where your grandfather died?

(Objection to these questions, because they seem utterly immaterial.)

An adjournment was here taken to two o'clock in the afternoon of this day.

121 AFTERNOON SESSION, *April 23rd*, 1894.

Met pursuant to adjournment.

Mr. PURDY. I am now ready to proceed with the case No. 116, of the Talaya Hill grant, Jacob Gold et al. vs. The United States.

I will offer in evidence a paper marked Manuel Trujillo for the Talaya tract, in reported number 89, before the surveyor-general of New Mexico.

Objection by Mr. Fiske, on behalf of the city of Santa Fe.

122 Q. (Mr. FISKE. Handing to witness paper in reported number 89, surveyor-general's office). Is that an original archive or a copy of the original; does it purport to be?

A. It appears to be the original document.

Mr. FISKE. Now, we object, because it does not appear to have come from the proper custody or to be a proper archive document. If it is an original paper, as the gentleman has testified, it has no business in the possession of claimants. Only copies were theirs and the originals should always have been in the archives; and it does not appear to be a sufficient instrument to base any title on; and that no proof has been made indicating that it was an archive document or that it came from the proper custody.

Mr. PURDY. In the trial succeeding this it will appear—the custody from which it came.

Q. (Mr. PURDY.) Mr. Tipton, if you have before you Archive 445, from the surveyor-general's office, please examine it and state what it purports to be.

A. This is a grant made by Governor Mendoza, on the 22nd day of August, 1742, to Juan Cayetano Lobato, for lands lying on the south side of the Santa Fe River, south of lands of Luis de Armenta, and north of the arroyo de la piedra, and east of the road going to Pecos.

Q. Is that an original archive?

A. Yes, sir.

Q. Please examine the signatures and give your opinion as to

123 their genuineness.

A. I am not acquainted with the signature of the petitioner in this case; at least not sufficiently to express an opinion about it; but the signatures of the governor and of the witness who signs the grant with him, and the signature attached to the act of possession by Antonio de Ulibarri, the alcalde and the signature of his witness, I know from having seen them upon documents in the archives, and those I believe to be genuine.

Q. Where does the land seem to be located? I mean its boundaries.

A. I mentioned its boundaries from the memoranda I had.

Q. Within or without the line of four leagues claimed by the town of Santa Fe?

A. In my opinion it is within, entirely so.

Mr. PURDY. I offer in evidence Archive 445, presented in land claim 103, of Cayetano Lobato, as Exhibit No. 2 in that claim.

Q. Have you the papers in surveyor-general's office, number 74?

A. Yes, sir; this is the original Spanish paper in that case.

Q. Do you find in that case an original Spanish paper, of date August 4th, 1772?

A. Yes, sir.

Q. Please state what it is?

A. It is a grant made on that date to Bartolo Marquez and
124 Francisco Padilla.

Q. Where does this land, if it is described there, appear to be located?

A. It lies—according to the boundaries set forth in this paper, it is bounded on the east by the arroyo de la tierra blanca, on the west by a highway going to Pecos, adjoining the lands of Juan Cayetano Lobato; on the south it adjoins the arroyo de los Chamisos, and on the north some high hills which are the boundaries of Captain Antonio Montoya. These appear to be the boundaries cited in the act of possession.

Q. What is your opinion with reference to the location of the lands therein described as to the Santa Fe claim of four leagues? Does it seem to be within or without the lines?

Mr. FISKE. I think if he knows he can testify positively; otherwise it would not be a proper question. I object, unless the witness can say he knows where it is.

Mr. PURDY. It is scarcely possible in any one of these grant claims for any man to positively swear that he absolutely knows the land referred to lies here or there.

The COURT. Answer the question.

A. In my opinion it is inside, and that opinion is based on what I know of some of the natural objects referred to in the grant itself, and also upon the fact that this grant has been located by a survey made under direction of the surveyor general's office, in which its whole area, as fixed
125 by that survey, is in conflict with the area claimed by the city of Santa Fe. The documents show that this grant lies north of the Chamisos arroyo, and lies east of the main road going to Pecos, and in my opinion that fixes it within the boundaries of the Santa Fe grant as claimed, at least to a certain extent, and the Government survey shows that it is entirely within.

Mr. FISKE. Is that one of the original archives, that paper you have there?

A. Well, that depends on what you mean by that term. The term is used in a technical way in the surveyor-general's office.

Q. Well, is it a paper that has been on file in the archives for any considerable time?

A. There is nothing on this paper by which I can say that it was one of the papers turned over to the surveyor-general at the time he took possession of certain Spanish archives that were in the hands of the governor of this Territory.

Q. Is that such a paper as should be in the archives or in the hands of the parties to the grant?

A. It is an original document in all its parts.

Mr. FISKE. Well, then, we make the same objection to this paper as to the last one.

Mr. PURDY. I offer this paper in evidence as being a paper in suit No. 72 before this court as exhibit number 2 therein. (Reported number 47.)

Mr. FISKE. We object to it.

126 Q. (Mr. PURDY.) Have you before you Archive 239 from the surveyor-general's office?

A. Yes, sir; I have.

Q. Please give its date and purport.

A. It is a grant made by Governor Mendoza to Antonio Dominguez on the fourteenth day of August, 1742, for land lying immediately south of those of Luis de Armenta and north of the arroyo de los Pinos.

Q. Does it show the location or approximate location of the lands described?

A. Yes, sir; the boundaries are mentioned.

Q. With reference to the Santa Fe league, does it seem to be within or without the lands of the league?

A. Well, the document does not show anything about the Santa Fe league.

Q. Are you able to locate the lands described therein with reference to the league?

A. Yes, sir; as a matter of opinion. In my opinion, this land is entirely within the Santa Fe grant.

Q. Is that an original archive?

A. Yes, sir.

Q. What is your opinion as to the genuineness of the signatures—of what purports to be the signature of the governor—attached thereto?

A. In my opinion, it is genuine.

Q. Is any other signature attached?

127 A. No, sir.

Q. When you answered the question that this is an original archive, what did you mean by that?

A. I mean it is one of the papers in the surveyor-general's office which are known as archives, in distinction from those papers which are filed there in private land claims and which came from private hands. That is one of the papers turned over by the first governor to the first surveyor-general in the year 1854 or 1855.

Mr. PURDY. I offer in evidence this paper, which is the same paper described in private land claim 105 before this court, of Antonio Dominguez as Exhibit No. 2 therein.

Q. Have you papers in reported number 107 of the surveyor-general's office before you?

A. Yes, sir.

Q. Do you find there any paper in Spanish of date September 20, 1732?

A. I find a copy of such paper here, not the original paper.

Q. What does the paper purport to be a copy of?

A. It purports to be a copy of a grant made in 1732, on the twentieth of September, by Governor Cruzat y Gongera to Jose Antonio Salazar of a tract of lands lying north of the Santa Fe River, near that stream. This document appears to be a copy; it is not complete.

Q. Is there any signature attached to it?

128 A. Well, sir, I do not see any signature on it.

Q. Does it seem to be an ancient document?

A. Yes, sir; it has that appearance.

Q. Do you recognize the handwriting as the handwriting of any other papers with which you are familiar in the surveyor-general's office?

A. I have not examined it critically with a view to expressing any opinion on that subject, but my impression is, without any careful examination, that it is the handwriting of Antonio de Ulibarri. I do not state that positively, but that is the impression it makes upon me.

Q. Who was about that time, along about 1740 or 1743, an alcalde in Santa Fe?

A. I do not know that. He was in 1732. It is my impression that this is in his handwriting.

Q. (Mr. FISKE.) Is the signature of Antonio de Ulibarri there?

A. No, sir.

Q. (Mr. PURDY.) Can you recognize the location of the land described therein from the description in this paper?

A. I do not think I can say I do from simply the evidence in the paper.

Q. What is the south boundary as given there?

A. The boundary on the south is a stone brow—una ceja de piedra—which there is before coming to the river of this town. I know where this land is claimed to be, but I can not say that the evidence in the
129 paper itself is sufficient to express an opinion upon that without knowing anything more about it.

Q. What is the north boundary of the grant given?

A. It appears to be the woods.

Mr. PURDY. I offer this paper in evidence.

Mr. FISKE. We object because it does not appear to describe any land and does not appear to be signed.

Mr. PURDY. This paper will be aided by evidence to be presented in this Lucero grant claim as Exhibit No. 2 in land grant claim 117 in this court.

Q. (Mr. PURDY.) Do you find the report of the surveyor-general in this reported number 147?

A. Yes, sir.

Mr. PURDY. There is testimony as to the boundaries in this reported case, but it does not appear whether the witnesses giving this testimony are deceased, and I shall have to delay until hearing this case to show its locus exact. I offer this paper in evidence.

Q. (Mr. PURDY.) Have you file number 104?

A. Yes, sir.

Q. If you have file number 104 from the surveyor-general's office, please state its purport.

A. There are several papers in that file.

Q. Do you find in that file a document of July 23, 1744,
130 signed by Governor Codallos?

A. Yes, sir; there is such a paper here.

Q. Please state what it purports to be.

A. It purports to be a grant made by Governor Codallos y Roybal on the 23rd of July, 1744, to Alfonzo Rael de Aguilar for a tract of land lying between the Alamo road and the wagon road to Albuquerque—at least the road now known by that name, and just east of the land of Domingo Valdez and west of other lands of Tomas Tapia and Melchion Rodrigues.

Q. Whose signature does this paper bear as governor?

A. Joaquin Codallos y Roybal.

Q. Do you recognize the signature as genuine?

A. Yes; I do.

Q. Is it an original archive of the surveyor-general's office?

A. I should say not from the marks upon it.

Q. Does it bear any number?

A. It bears a number; yes, sir.

Q. What is the number?

A. It says, file 104, in black ink; then in red ink there is a number one and a letter A upon it, but no one of these marks is a mark identifying it as a mark that the first surveyor-general came into possession of it.

Q. Are you able to locate the land described in that document, in your opinion?

131 A. I have an opinion as to where it is located. I believe it to be situate entirely within the Santa Fe league, and in a southwesterly direction from this town. The distance I could not say exactly—probably a mile and a half, possibly farther. It lies east of the lands of Domingo Valdez, which has been filed in this court and a suit has been brought, and it was shown in that suit that the lands were within the league of Santa Fe, and as the lands in question lie east of that they must necessarily be within.

Mr. PURDY. I offer this paper in evidence as the same paper that in private land suit 101 before this court *court* appears as exhibit number 3, in the claim of grant of Alfonzo Rael de Aguilar.

Mr. FISKE. We object to it as not being competent, the testimony given being no more than a mere opinion.

Q. Have you Archive 1043 in the surveyor-general's office before you?

A. Yes, sir.

Q. Please state what it is—its date and purport.

A. This appears to be a petition by Domingo Valdez, a resident of Santa Fe, to the Spanish governor of the province, asking for a grant of lands. Also an endorsement by the governor, stating that the alcalde, Antonio de Ulibarri, will report whether the petition is admissible, and if so that he will do as prayed for in the petition. That is followed by an act

132 of possession, signed by Ulibarri, in which he recites the boundaries of the tract of land of which he placed the party in possession, and the possession is dated the fifth of June, 1742; the governor's order on the third of June, of the same year.

Q. (Mr. FISKE.) Is that paper substantially as you have described it, or is there anything in the way of a grant about it?

A. It is substantially as I have stated.

Q. (Mr. PURDY.) Are you able to locate, in your opinion, the land from the description thereof given in the paper?

I do not think I could from the description of the papers; no, sir.

Q. Does it refer to any road, river, or arroyo?

A. Yes, sir; it refers to an arroyo which is on the wagon road as being the south boundary of the tract.

Q. Does it read the camino de carros?

A. Yes, sir; the camino de los carros.

Q. Do you know any other camino de carros with reference to this city?

A. I understand that road is the road which we commonly call the Cerrillos road nowadays.

Q. Does it start from the city of Santa Fe?

A. Yes, sir.

Q. What direction does it take?

A. Southwesterly direction.

Q. And continues how far?

A. Well, it goes to Cerrillos. One branch of it goes down over
133 through the Cañon de las Bocas and Santo Domingo to Albuquerque, sometimes called the Albuquerque road.

Q. Do you know how far it was designated in these old papers as the camino de carros?

A. I do not know how far; I am convinced this is the road from what I know of the old papers, and I am satisfied that is the only road that was known by that name, as I stated this morning. I do not know whether it is confined to any Santa Fe league. It may have been called that much farther, but I know that in the vicinity of Santa Fe it was called by that name. I know that from the papers in the archives.

Mr. PURDY. I offer this paper in evidence, as exhibit number 12, in the Domingo Valdez grant, No. 49—in suit No. 49—before this court.

Mr. FISKE. Does this appear to have been a grant or merely a direction to the alcalde to investigate and report?

A. That, perhaps, is a matter of opinion. I can state exactly what this order is.

Q. What is the order?

A. The order, signed by the governor, states, as I translate it: "Santa Fe, June 3rd, 1742. The Chief Alcalde Antonio de Ulibarri will report to me whether that which is asked for by the petitioner is admissible, and if it is it will be done as he requests. Mendoza." That
134 is an endorsement on the margin of the petition itself.

Q. There is no other signature of Mendoza there? He did nothing else?

A. No, sir; not so far as this document shows.

Q. (Mr. PURDY.) What is your opinion as to the genuineness of the signature of Mendoza as it appears on that paper?

A. I believe it to be genuine.

Mr. FISKE. The offer of that paper in evidence is objected to, on the ground that there does not appear to be a grant, but a direction to the alcalde to investigate and report.

Q. (Mr. PURDY.) Have you before you Archive 527 from the surveyor-general's office?

A. Yes, sir.

Q. Please state the date and purport.

A. This document is a grant made by Governor Mendoza, dated July 22nd, 1742, to Catarina Maese, of the tract of land situate immediately west of the land of Domingo Valdez and east of those of Captain Miguel Coca.

Q. Is the north boundary given in there?

A. Yes, sir; in the act of possession the north boundary is recited.

Q. What is the north boundary given in the petition?

A. The main irrigating ditch, acequia madre.

Q. And in the act of possession, what are the boundaries given?

135 A. The boundary on the east in the act of possession is the boundary lines of Domingo Valdez.

Q. On the north what is the boundary?

A. The boundary on the north is an acequia, irrigating ditch, which is on the right-hand side of the road coming toward this town, by the ranch of Captain Diego Arias.

Q. What is your opinion as to the location of this described grant with reference to the Santa Fe league—whether it is within the league or without it, in your opinion, from the description in the paper, as near as you can judge?

Mr. FISKE. I want to make a general objection to all this, on the ground that it is mere opinion and that the witness does not qualify himself to state the location.

A. These lands lie immediately west of the lands of Domingo Valdez, according to the recital in the document, and those lands have been shown before this court by the evidence produced on the trial to be within the land now claimed by the city of Santa Fe. Consequently, in my opinion, I believe the lands described in this Archive 527 are at least partially within the claim made by the city, if not entirely.

Mr. PURDY. I offer this as evidence—Archive 527. It is the same paper referred to and made Exhibit No. two, in land grant suit 119, before this court, in the name of Catarina Maese.

136 Q. If you have Archive 44, please state its date and what it purports to be.

A. Archive 44 is a grant made by Governor Mendinueta, the eighteenth of May, 1769, to Antonio de Armijo of a tract of land lying west of those of Leonardo Gonzales and Juan Antonio Archuleta and of the point where the Canada de los Pinos adjoins the arroyo de los chamisos.

Q. Please examine the boundaries as described in the petition and act of possession. What is the eastern boundary, described in either the act of possession or petition?

A. The eastern boundary in the petition is the lands of Leonard Gonzales and Juan Antonio Archuleta.

Q. In this connection have you Archive 25?

A. Yes, sir.

Q. Please state its date and purport.

A. Archive 25 is a grant made on the fourth of September, 174?, by Governor Mendoza to Juan Antonio Archuleta and Leonardo Gonzales for lands bounded on the east by Juan Felipe Rodrigues, on the west by lands of Captain Miguel Coca, on the north by the wagon road, and on the south by the white hills.

Q. Are you able to locate the possession of the lands therein described with reference to the Santa Fe league—Archive 25, grant to Archuleta and Gonzales?

A. Not from the recital in the papers alone. I know where the lands to which they refer here are claimed to be. The lands recited

137 here as being the east boundary of this tract are claimed to be within these four leagues, and suit is filed in this court for them, setting up the fact that they are within that distance. From the description of the land I could not say that I could give it.

Q. And in Archive 44, that other paper to which you testified?

A. The lands described in Archive 44 lie immediately west of those described in Archive 25, according to the recitals in the paper.

Q. Now, as to the lands described in 44, are you able to describe where they are with reference to the league?

A. I am in doubt about the location of this land of Romero. I had understood as a matter of common report among persons claiming to know that the lands were within the league and not far from the penitentiary—lying west of here and not far from the penitentiary; but lately it has occurred to me that perhaps there may be considerable doubt about that, on account of other grants having been located in that vicinity, where I supposed this land was, but I could not state positively. I am inclined to think that these lands conflict slightly on the southwest corner with the Santa Fe league, but I could not say they were entirely inside.

Q. Is that an original Archive, 44, and do you recognize the signature of the governor as genuine?

A. Yes, sir.

Q. Archive 25, do you recognize the signature of the governor?

A. Yes, sir; as genuine, I do.

138 Mr. PURDY. I offer in evidence Archive No. 44, as the same paper in land grant suit number 102, before this court, in the name of Antonio Armijo.

Mr. FISKE. The entire extent of that grant is four hundred varas, is not it, according to the statement?

A. That is the amount stated in the grant, in the decree itself, yes, sir; four hundred varas square.

Q. Do you have any fixed opinion as to where any of that four hundred varas is?

A. I have no opinion in relation to it which makes me perfectly positive. I stated I had changed my mind about its location recently.

Mr. FISKE. We make the same objection to the introduction of that paper as before.

Mr. PURDY. I offer in evidence Archive 25, as the same paper presented in land suit 104, in this court, in the name of Archuleta and Gonzales, as Exhibit No. 2 therein.

Mr. FISKE. Same objection.

Mr. PURDY. Will you please examine this paper and state its date and what it is, so far as it appears? This paper is exhibit number three in land suit number 121, before this court, in the name of de Vera grant.

A. This is a grant made on the eighth of January, 1746, by Governor Joaquin Codallos de Roybal to Jose Romo de Vera to a tract of
139 land lying west of lands of Domingo Valdez, east of those of Juan Jose de Archuleta, south of lands of Catarina Maese, and north of the camino de los carros.

Q. How are the lands located in the grant with reference to this town of Santa Fe?

A. They are south and west of here and immediately west of the Domingo Valdez lands.

Q. What is your opinion with reference to the Santa Fe league as to whether they are within or without it?

A. My opinion is that they are at least partially within.

Q. What signature does it bear, the grant bear—the signature of what granting officer?

A. Joaquin Codallos de Roybal.

Q. You recognize that as the original signature by comparison with other papers in the archives?

A. I recognize it without comparison, because I am familiar with the signature.

Q. Archive or not?

A. I do not see anything on it to indicate it was ever in the surveyor-general's office. I think the signature of the governor is genuine, yes, sir; but I see no mark on the document to indicate it was ever in any of the public archives in this Territory.

Mr. PURDY. I offer this paper in evidence, as Exhibit No. 3 aforesaid in land claim land suit 121, in this court—same paper. The source from which it came I will offer to show in the trial of the case.

140 Mr. FISKE. I make the same objection.

Q. Mr. Tipton, have you Archive 962?

A. Yes, sir.

Q. Please state its date and purport and so forth.

A. This is a grant made by Governor Mendoza, on the twelfth day of June, 1742, to Tomas Tapia for lands lying west of the lands of Felipe Tafoya and on the south side of the Santa Fe River.

Q. Do you ascertain the location of the lands from an inspection of this paper?

A. The lands of Felipe Tafoya, which are recited as the eastern boundary of this tract, are claimed to lie between the Agua Fria road and the Albuquerque road, and running west from the Guadalupe church, I think. These lands immediately adjoin them.

Q. Are they within or without the league of the city of Santa Fe, in your opinion?

Mr. FISKE. We object to the question, because witness ought to testify to what he knows and not to what somebody claims.

A. The lands I mentioned as the eastern boundary are sued for in this court, and claim is set up for them, and these lands immediately adjoining them on the west are in all probability within the league claimed by the city of Santa Fe.

141 Mr. PURDY. I offer this Archive, 962, in evidence, as the same paper numbered as exhibit number two in land claim 192, before this court, Thomas Tapia grant.

Mr. FISKE. Same objection.

Q. If you have Archive 961, please state its date and purport.

A. It was a grant made on the sixteenth day of May, 1742, by Governor Mendoza to Felipe Tafoya, for lands lying between those of Felipe Pacheco on the east and those of Gregorio Garduno on the north, and north of the main wagon road, or camino de los carros.

Q. What further description do you find in the act of possession in that paper?

A. In the act of possession it states that the boundary on the east is the arroyo which serves as a boundary for the lands of Felipe Pacheco.

Q. And how is the north boundary given?

A. The north boundary, the main irrigating ditch, acequia madre—very old—and which is the boundary of the lands of Gregorio Garduno.

Q. What is your opinion as to the location of these lands, with reference to the Santa Fe league—whether they are within or without it?

A. In my opinion they are within the league.

Mr. PURDY. I offer this paper, Archive 961, in evidence, as the same paper in land suit 187, before this court, as the Felipe Tafoya grant,

142 as exhibit number two in such suit.

Mr. PURDY. That about finishes the papers I wish to offer as muniments of title in these suits. I offer a paper in evidence as Archive 1147.

Q. (Mr. PURDY.) Have you Archive 1147?

A. Yes, sir.

Q. Please state its date and purport.

A. This appears to be a printed copy of the decree issued from the royal palace in the City of Mexico on the twenty-third of September, 1815, and containing what purports to be a copy of the royal order issued on the eighth of June of the preceding year.

Q. Is that an original archive? Is it one of those papers we understand by the term archive—one of those papers received from the Mexican Government?

A. This is one of the papers. In my opinion it is not one which was turned over to the surveyor-general in 1854 or 1855, but I think it came into the surveyor-general's office probably within the last ten years, from the Territorial library. I think it was among those papers turned over to the surveyor-general by Samuel Ellison when he was Territorial librarian.

Q. Have you any knowledge as to the signatures which this paper bears?

A. I have seen this signature here, but not enough to consider myself familiar with it.

143 Mr. PURDY. I offer that archive in evidence. I offer it for the purpose of showing its genuineness. I will read a translation.

Mr. Purdy here proceeded to read to the court the translation of said document, concluding with: "That is all I have to offer in evidence in answer to the petition of the town of Santa Fe."

Mr. FISKE. We object to the introduction of this paper, on the ground that it is immaterial. And I desire to move to strike out all the documentary testimony offered by Mr. Purdy, on the general grounds already stated, and on the further ground that at most what are termed grants were mere allotments; and on the further ground that there is no competent proof showing that any portion of any of these lands are within the grant as claimed by the town of Santa Fe; that as to each of the papers, there is no competent proof that they come from the proper custody. There is an exception to three of these, I believe, but in the others the proof is not satisfactory, in my idea.

The COURT. The ruling will be reserved on that.

144 Mr. PURDY. I offer in evidence the act of possession.

Mr. REYNOLDS. I object to the fragmentary line on the front that is not accounted for as to whether it ever constituted a part of the entire document as being an original produced from private hands. Its custody is not accounted for, and being in private hands it is improperly introduced as an archive, and therefore is not available; nor is there any foundation laid for its introduction. I will suggest to the court that in the absence of a record the mutilation of a record is always to be construed against the producing party unless he accounts for it.

Mr. PURDY. I will again read to this court this paper—a translation of this paper—presently.

Mr. REYNOLDS. Further objection, because the description given that instrument is indefinite.

MANUEL RODRIGUEZ Y ORTIZ, called as a witness on behalf of the claimants to the Talaya Hill grant, and by way of defense to the grant of the city of Santa Fe, being duly sworn and examined by Mr. Purdy, testified as follows:

Q. Did you know at any time a man by the name of Matias Urioste?

A. Yes, sir.

Q. Was he a resident of this town?

145 A. Yes, sir; he resided here.

Q. Do you know whether he is living or dead?

A. Yes, sir; he is dead.

Q. What time did he die, as near as you can tell?

A. I don't know; it is a long time ago—five or six years ago.

Q. (Mr. REYNOLDS.) Do you remember any other man of that name in this town?

A. No.

Mr. PURDY. Testimony from reported number 89 of Matias Urioste, Manuel Rodrigues, records of the United States.

A. I knew him only to work in the carrying of wood from the hills on burros.

Q. (Mr. REYNOLDS.) Wasn't he a professional beggar?

A. Yes, and no, he wasn't; he was a poor man, that is all.

Q. Didn't he sit around the streets here begging for years?

A. Yes; I saw him there.

Q. Was he begging around the streets?

A. I didn't see him begging; but I saw him in the streets, though.

Q. But you could easily guess he was in that business?

A. I didn't see him begging, but he looked to be a beggar.

Q. (Mr. PURDY.) Did you know anything against the character of the man for truth, by general reputation—anything against the man?

146 Question overruled by the court on its own motion.

Mr. PURDY. I will now read the testimony of Matias Urioste. (Mr. Purdy proceeded to read said testimony to the court.)

Q. (Mr. FISKE.) How long did you know this Urioste? Were you often together?

A. I knew him for a long time.

Q. Knew him right intimately, didn't you?

A. I knew him intimately.

Q. Was he a man of any education at all? Did he ever go to school any?

A. I didn't see.

Q. Was he able to read and write?

A. No.

Q. He could not read or write either Spanish or English, could he?

A. No, sir.

Q. (Mr. PURDY.) Did you know Louis Gold and if in his lifetime he was a citizen of Santa Fe?

A. Yes, sir.

Q. Do you know whether Louis Gold is living or dead?

A. I know he is dead.

Q. About what time did he die?

A. It is a long time ago that he died. I don't remember. Many years ago.

Mr. PURDY. I will read the testimony of Louis Gold.

(Mr. Purdy proceeds to read said testimony.)

147 Mr. PURDY. I now offer in evidence the grant of Marquez y Padilla, as presented in reported number 74, a grant adjoining the Talaya sitio, which is introduced as number 74 in the office of the surveyor-general.

Mr. REYNOLDS. I object, for the reason that it is not an archive, but is produced from private hands, and also that it is incompetent, unless this grant itself, which is offered, as I understand it, for the purpose of fixing the boundary of the Talaya grant, is itself surveyed as located and its relation to the Talaya grant is shown.

Mr. PURDY. The translation reads as follows.

The COURT. It is not necessary to read that, Mr. Purdy.

Mr. PURDY. I offer that in evidence, as exhibit number three in the case, grant to Marquez y Padilla.

Mr. REYNOLDS. I object, as the location of this grant is indefinite and offers no basis from which to get the boundary of the Talaya grant, until it is located itself.

W. M. TIPTON, a witness called by Mr. Purdy herein, being duly sworn, testified as follows:

Q. (Mr. PURDY.) Say if you have Archive 970 and please state its nature and purport.

A. Yes, sir; I have it. This document appears to be a distribution of lands made by Manuel Gallegos, chief alcalde of the town of Santa Fe, on the 23rd day of April, 1751, upon the petition of two of the heirs of Manuel Trujillo, deceased.

148 Q. Does that seem to be an original archive?

A. Yes.

Q. Do you know anything about the signatures affixed to it; have you any familiarity with any of them?

A. I think I have seen them all, but I am not familiar with any one of them, except that of witness Lucas Miguel de Moya.

Q. What is your opinion as to the genuineness of it as it appears on the paper?

A. I believe it to be genuine.

Mr. PURDY. I offer this paper in evidence in this case as exhibit number six, archive number 970, to show that the government, to wit, the county judge, chief alcalde, as acting judge, adjudicates, divides up these lands, and that the true heirs are heirs at law of Manuel Trujillo, grantee, two girls—two daughters.

Mr. BARTLETT. I object to that for the reason that it does not satisfy the modus in quo at all.

Q. Have you Archive 344?

A. Yes, sir; I have that archive.

Q. Please state what it is; give the date, and state what it is, please. What is the number of it?

A. Three forty-four. Do you want the date of it?

Q. State the purport of it.

A. I don't see any date in that page of the instrument.

Q. Is that the original archive or what we call archive?

149 A. Yes; that is what is called in the surveyor-general's office.

Q. Do you recognize any of the signatures to that paper?

A. I do; yes.

Q. Which one?

A. I recognize the signature of Jose de Bustamente.

Q. In what capacity does it appear here?

A. It appears here in the capacity of chief alcalde of the town of Santa Fe. I also recognize the signature of one of the witnesses, Lucas Moya.

Q. Does it seem to be genuine?

A. Yes; I believe so.

Mr. PURDY. This is a letter of the widow of Manuel Trujillo.

Mr. REYNOLDS. I object on the ground that it does not come from the proper custody, nor is it shown definitely or proven, as is required by the laws of Spain, and that an instrument of that character, as far as the testimony touching it is concerned, comes within and absolutely under the laws of Spain.

Mr. PURDY. Proceeding, this paper is a genuine ancient document, found in the archives of the family relations of Trujillo, the alleged grantee of these lands.

The COURT. Read the paper.

(Mr. Purdy reads said paper to the court.)

Mr. PURDY. We now offer this archive, No. 344, in evidence.

Mr. REYNOLDS. We object to the assumption that it is proper evidence. We object to it on the ground that it is not properly accounted for,

150 that it does not properly come within the Spanish law, and that it is not properly proven.

Q. Please state to the court how many witnesses you find, *ho* how many signatures you find.

A. There are two.

Q. Opposite the act official of the alcalde?

A. Yes; the alcalde's and two witnesses's.

Mr. PURDY. Therefore, I submit that the will is complete; is complete under the Spanish law; is complete as a will.

Mr. GILDERSLEEVE. I object for the still further reason that in the first place I deny that two witnesses were sufficient under the Spanish law. I deny that the alcalde could be one of the witnesses, and I object for the still further reason that the will never was probated. If there was anything it was the probate of wills that they provided complete machinery for.

By the COURT. The objection is overruled.

Q. Have you in your possession Archive No. 994?

A. I have it.

Q. Is that one of the archives proper?

A. Yes.

Q. What is its date?

A. 27th day of April, 1770.

Q. What signature does it bear?

A. It bears what purports to be the signature of Antonio Arny, that of Nicolas Layal, and the names of Antonio de Guerrera, and signed by Rael at his request.

151 Q. Do you recognize any of the signatures?

A. That of Rael.

Q. What is your opinion of its genuineness?

A. I have no reason to doubt its genuineness.

Q. Anything about the paper to question its genuineness?

A. I find nothing.

Mr. PURDY. This paper is the will of the daughter of Francisca, daughter of Manuel Trujillo, who describes herself herein as the widow of Romero, and they have some three or four children, whose names will appear in the paper, copy, and translation to-morrow, and filed herein, and further to show that she disposes of her residuary interest in this grant, as will appear. She refers to it as her remaining interest in the Talaya grant. I offer the paper in evidence to show a claim at that time in this particular grant, and to show the corroborating evidence of who constituted the family and what became of them. It refers to it as the merced de Talaya, I think. It refers to it as the lands which are called Talaya.

Q. (Mr. FISKE.) What does that expression Talaya mean?

A. Talaya, I believe, is the name of some herb. I am inclined to think that this particular word was used for an entirely different word. There is such a word in Spanish as Atalaya, which means a look out.

Q. (Mr. PURDY.) Mr. Tipton, have you archive number 35?

A. Yes, sir; here it is.

Q. Is that paper an archive from the surveyor-general's office?

A. Yes, sir.

152 Q. What is its date?

A. June 4, 1759.

Q. What signatures or signature does it bear?

A. It bears three.

Q. Whose are they? What are they?

A. It bears the name of Francisco Guerrera, Tomas Antonio Sena, and Antonio Guerrera.

Q. What office does he purport to hold?

A. That of chief alcalde of the town of Santa Fe.

Mr. PURDY. This paper, Archive 35, I offer in evidence in this case.

Q. Mr. Tipton, have you archive number fifty?

A. Yes, sir.

Q. Is that an archive proper?

A. Yes, sir.

Q. What signature does it bear, any official?

A. It bears the signature of Francisco Guerrera, chief alcalde of the town of Santa Fe.

Q. Is that the same signature named in archive number 35?

A. Yes, sir.

Q. Does it appear to be a genuine signature?

A. Yes; it appears to be.

Mr. BARTLETT. I object, for the reason that it does not satisfy the modus in quo at all.

An adjournment was here taken till to-morrow morning at ten o'clock, April 24th, 1894.

153 APRIL 24TH, 1894.—*Morning Session.*

Met pursuant to adjournment.

The taking of further testimony in the cases of the city of Santa Fe and the grants conflicting therewith was adjourned until two o'clock this afternoon.

154 AFTERNOON SESSION, *April 24th*, 1894.

Met pursuant to adjournment.

Mr. REYNOLDS. I suggest to Mr. Purdy that he take up, after finishing this case, a couple of other cases lying wholly within the Santa Fe league, and try them, and that will submit to the court cases conflicting with the Santa Fe grant, so that the court can decide the status of these small grants, and these other cases can be continued, so that when the court decides this case we will know how to proceed with the other.

The COURT. You may proceed in that way.

Mr. FISKE. I offer in evidence the order of 1791 of Pedro de Nava, fixing the limits of pueblo grants at four leagues. It is the original, signed by Pedro de Nava. It is offered as an original, as a paper that was turned over by the Mexican Government at the change of sovereignty to the United States, as one of the Spanish archives of this jurisdiction, which is admitted to have been in the possession of the United States since then, in the proper custody.

Mr. REYNOLDS: I want to offer the decree of Pedro de Nava, made in 1798, that was introduced in the Socorro case. I will file translation and original, with reference to the establishment of certain towns in the
155 Territory. I do that for the purpose of showing that there was no general rule.

Mr. PURDY. In closing this Talaya case, as briefly as possible, I have two or three questions to ask.

FRANCISCO GONZALES Y CHAVES, called as a witness on behalf of the claimants in the Talaya grant, case No. 116, to sustain their case in chief, and for purposes of defense to the case of the city of Santa Fe, No. 80, being duly sworn and examined by Mr. Purdy, testified as follows:

Q. State your name, age, and residence.

A. I am going on sixty-four years of age; my name is Francisco Gonzales y Chavez, and I live at Santa Fe.

Q. Where were you born?

A. Here in Santa Fe.

Q. Have you lived in Santa Fe all your life?

A. Yes, sir.

Q. In what part of Santa Fe?

A. Here, in precinct number three, above.

Q. Do you know a tract of land that is called Talaya or Talaya grant?

A. Of my own knowledge, no; but by history I have heard it mentioned or spoken of ever since I arrived at the age of reason.

Q. Do you know anything about where the limits of that tract are or are claimed to be?

A. According as it is said or spoken of I do know the places.

156 Q. State what they are.

A. On the east the Sierra de Talaya, Talaya Mountains; on the west an arroyo hondo, which empties into the smelter (fundicion); on the north the head of the main ditch, where it starts from the river; on the south, a deep arroyo above the head of the arroyo de los Chamisos.

Q. Do you live within the limits you have mentioned?

A. No, sir; I live a short distance outside.

Q. How far?

A. A distance of a little more than what is known as that grant, about seventy-five years.

Q. Do you know Manuel Rodrigues, a witness who was here this morning?

A. Yes, sir.

Q. Do you know where he lives?

A. Yes, sir.

Q. Do you know whether it is within or without the limits you have described of this tract?

A. It is within the limits which I have described.

Q. What is the distance from the monument to where Manuel Rodrigues lives—the monument in the plaza?

A. Well, a little more or less, it is about two miles.

Q. Who do you recollect as several of the prominent residents upon the lands you have described, from your earliest recollection?

157 A. Well, with regard to the prominence, the men who have lived within those limits, they have been everyday men; they were not——

Q. Give me the name of some person you recollect as having lived on that grant when you were a boy.

A. Well, Alejandro Ortiz, Estevan Armenta, Miguel Armenta, Cristobal Lopez, Tomas Lopez, Nicolas Rodrigues, Martin Lopez, Juan Jose Lujan, and several other very old persons; I can not remember their names unless I get time to think about them.

Q. Were these people for the most part whom you have named in possession of these lands at the time the United States Army came in here in 1846?

A. They themselves were not in possession, but their successors were, because they were very old people.

Q. Had they already died, these people you have named?

A. The greater part of them had died; because in the year 1846 the Government took possession of New Mexico.

Cross-examination by Mr. FISKE:

Q. Where did you live in 1846?

A. Here, at Santa Fe.

Q. Whereabouts in Santa Fe?

A. Here, at the same place where I live now.

Q. How old were you then?

A. I was born in the year 1831, on the eleventh day of March.

Q. How came you to be so familiar with this grant?

158 A. Through what people would tell me—my uncles and my father and my people. I was at that time a young shepherd boy, and I would herd flocks on the hills, and they would tell me the names of particular places in the vicinity.

Q. Did they tell you that frequently or only once or twice?

A. I have heard the conversation several times, among several people, about the Talaya grant. They did not say to whom the grant belonged.

Q. They did not give you the boundaries, either, did they?

A. They would ask me how far I had gone with the flocks. At that time the grant was covered with shrubbery or timbered, and we were wont to herd many flocks at that time there; when I would say I had gone to such a place, they would tell me that that was the southern boundary of the Talaya grant.

Q. Did you ever hear of the Santa Fe grant about those days?

A. I heard something also mentioned among the people; yes, sir.

Q. Did you hear about it up in that vicinity where you were herding?

A. I heard it said that it was one league.

Q. One league from what place?

A. By saying one league around I understood that they meant one league from the plaza to each of the cardinal points.

Q. Was there any difficulty that you know of between the claimants in this Talaya grant and the town of Santa Fe grant?

A. I have never known of any difficulty.

Q. There was never regarded as any conflict with the town of
159 Santa Fe grant, was there?

A. Maybe it was so; because I never knew of anybody making any claim among the people, one on one side from the town and the other from the Talaya grant.

Q. There never was regarded as any conflict between the town and the Talaya grant, was there?

A. No, sir.

Q. Did the people generally, at the time you speak of, before the American invasion, regard the town limits as you have described them, one league each way from the plaza?

A. That was what all the people considered them, as I heard them say.

Q. That is from the time you can first recollect, is it?

A. Yes, sir.

Claimants rest their case in chief No. 116, Talaya grant, and so much of their defense to the grant of the city of Santa Fe.

160 The attorneys representing the city of Santa Fe then proceeded to introduce the following testimony, by way of rebuttal, sustaining the case in chief of the city of Santa Fe, and by way of defense to the claimant's case in suit No. 116, of the Talaya Hill grant:

MANUEL SAIZ, called as a witness for such purposes, being duly sworn and examined by Mr. Fiske, testified as follows:

Q. What is your name?

A. Manuel Saiz.

Q. Where do you live?

A. In precinct number three.

Q. Do you know where the Talaya Mountain is, la sierra?
A. Yes, sir, I do.
Q. Do you know where el arroyo de los Chamisos is, or the head of the arroyo?
A. Yes, sir.
Q. Do you know where the head of the acequia madre is?
A. Yes, sir.
Q. Do you know where the arroyo which empties into the smelter is?
A. No, sir.
Q. Do you live on the tract of land within the boundaries I have just mentioned?
A. I am outside of the boundary that you say.
161 Q. Whereabouts do you live up there—how near the Talaya Mountain?
A. About a mile—less than a mile.
Q. On the other side of the river?
A. Yes; on the other side of the river.
Q. About a mile this way from the Talaya Mountain?
A. Maybe it is that far.
Q. How long have you lived there in that place where you are now?
A. About fifteen years.
Q. Have you ever heard of any grant called the Talaya grant on that place where you live?
A. I have heard of it as long as about two years ago, but I don't know how that grant is.
Q. Do you own the property you live on there?
A. Yes, sir.
Q. Do you claim that property under the Talaya grant or under the Santa Fe town grant?
A. I have at the place that they say is the Talaya a tract of land that I have entered myself. I did not purchase it, I just entered it.
Q. Is that where you live?
A. No; I live below that place.
Q. Well, now, this place where you live, do you claim under the Santa Fe grant or do you claim under any other grant?
162 A. Under the grant of Santa Fe.
Q. How far from the river is your house that you are speaking of?
A. It is very near to the river, about sixty varas or a little more.
Q. How far are you from the acequia madre—the head of the acequia Madre?
A. The dam is very far above my house.
Q. About how far?
A. I can not state the distance.
Q. Can you state whether it is a half a mile or more?
A. No, sir.
Q. How long would it take you to walk to it?
A. I do not know.
Q. Would it take you all day?
A. No; it would not take all day.
Q. Would it take you five minutes?

A. Probably so.
Q. That is about what it would take to walk there at an ordinary gait?
A. Yes, sir.

Cross-examination by Mr. PURDY:

Q. Which side of the river do you live, north side or south side?
A. On the south side.
163 Q. Which place are you nearer to, the brewery in Santa Fe or the reservoir above Santa Fe?
A. The brewery.
Q. How many minutes would it take you to walk to the brewery from your house at an ordinary walk?
A. I do not know.
Q. Do you know whether or not you were inside the limits of the Talaya grant?
A. I do not know.
Q. Do you know where the limits of the Talaya grant are?
A. No, sir.
Q. Who lives in the house nearest to you?
A. Rafael Trujillo.
Q. And who in the next house?
A. Benito Borrego.
Q. Do you own the house you live in?
A. Yes, sir.
Q. And lands adjoining?
A. Yes, sir; I have a tract of land there.
Q. How many varas?
A. About fifty varas.
Q. Did you buy that property or did it come to you by inheritance?
A. A portion of it I purchased.
Q. From whom?
A. I bought from Pablo Moya, deceased.
164 Q. When?
A. About six years ago.
Q. Did you get a paper title—deed?
A. Yes, sir.
Q. Have you that deed with you now?
A. Yes, sir.
Q. Will you produce it?
A. I do not have it here; I have it at my house.
Q. Do you know how Pablo Moya acquired that property; how he acquired title to it?
A. No, sir.
Q. You say you bought a portion of Pablo Moya. Now, how did you acquire the other portion?
A. On the side of my wife.
Q. What is your wife's name?
A. Celsa Vigil.
Q. Who was the father of Celsa Vigil?
A. Rafael Vigil, deceased.
Q. And who was the mother?
A. Paulita Vigil, deceased.

Q. Do you know her other name?
A. Yes, sir; Paulita Rivera.
Q. How did your wife acquire title to this property?
A. I do not know.
Q. You do not know whether she acquired it from her mother or
165 through her father?
A. No, sir.
Q. Did you ever receive any deed or contract of purchase of any part of this property from the town of Santa Fe?
A. No, sir.
Q. Did your wife or your wife's parents have any deed at any time or contract of purchase from the town of Santa Fe?
A. I do not know.
Q. Did you ever hear your wife's people talk about having any claim of title by deed or contract from the town of Santa Fe?
A. I don't know.
Q. Do you say you are claiming that property under title from the Santa Fe grant of the town of Santa Fe?
A. I don't know anything about that.
Q. Do you know anything about any Santa Fe grant?
A. No, sir.
Mr. FISKE. Did you never hear of the Santa Fe town grant?
A. No, sir.
Q. You have lived there fifteen years?
A. Yes, sir.
Q. Do you know there was any town down here?
A. I have seen the town since I have been of the age of reason.

166 NESTOR SENA Y ORTIZ, a witness called by the attorneys for the city of Santa Fe, in the line of this defense and rebuttal, being duly sworn and examined by Mr. Fiske, testified as follows:

Q. What is your name?
A. Nestor Sena y Ortiz.
Q. Where do you live?
A. I live at Santa Fe, precinct number three.
Q. Do you know where the tract of land is that is now claimed as the Talaya grant?
A. Yes, sir.
Q. Do you live on that portion of the land up there that is now claimed as the Talaya grant?
A. I live outside.
Q. How far?
A. About one hundred and twenty varas.
Q. How long have you lived there?
A. Since I was born.
Q. How old are you?
A. Forty-eight years of age.
Q. When did you first hear of this Talaya-grant claim?
A. I have heard it mentioned for several years.
Q. Do you live on the south side of the river?
A. Yes, sir.

Q. How far do you live from the Talaya Mountain?

A. About three and a half miles or four miles, more or less.

Q. This way from the Talaya Mountains or the othe'?

167 *Q. This way from the Talaya Mountains or the other side?*

A. On this side.

Q. How far are the Talaya Mountains from here where you are now?

A. About eight miles or nine miles.

Q. Can you see the Talaya Mountains from here?

A. Yes, sir.

Q. Then you live more than halfway up from here to the Talaya Mountains?

A. I live nearer to this place; the distance is farthest to that side from the middle.

Q. The Talaya Mountains are, then, about three miles from where you live?

A. Three or four.

Q. And from where you are now; you live four or five miles from here?

A. No.

Q. Can you locate some point up there near where you live?

A. What kind of a point?

Q. Well, how far do you live from the old dam up there of the water company?

A. About eight or nine hundred miles. Which dam do you have reference to, the dam of the ditch or water company?

Q. I said water company.

A. About three miles, probably.

Q. You don't know much about miles, do you?

168 A. No, sir; I do not.

Q. Do you know more about leagues?

A. About the same.

Q. Can you see that stone dam of the water company from where you live?

A. Yes, sir.

Q. It is only a short distance, is it?

A. No; it is not very far. I can see it from my house.

Q. It is about five minutes' walk from your house, is not it?

A. No, sir; about twenty minutes' walk; twenty or twenty-five.

Q. Do you know where the head of the acequia madre is?

A. Yes, sir.

Q. How far do you live from that?

A. I live about one thousand varas.

Q. Do you know where the arroyo hondo is that empties into the smelter?

A. Yes, sir.

Q. Are you above that or below it?

A. I am opposite the arroyo.

Q. Do you live east of the arroyo or up that way from the arroyo?

A. No, sir. Yes; on that side of the arroyo; the arroyo runs below my house.

Q. Runs on this side of your house?

A. Yes, sir.

169 Q. Do you own property there?

A. Yes, sir.

Q. How long have you lived at that particular place?

A. Forty-eight years; since I was born.

Q. Under what claim of title do you claim to hold that land?

A. A portion of it I hold by inheritance from my parents and another portion I hold by purchase from my brothers, who inherited also from my parents.

Q. Do you claim under the Santa Fe town title or under some other title?

A. Under the town of Santa Fe.

Q. Do the people generally up there and a little above you claim under the same title that you do?

A. I do not know.

Cross-examination by Mr. PURDY:

Q. This property that you speak of, does it lie this side of the ruins of the fundicion or smelter or does it lie above and east of the smelter?

A. Above, opposite the smelter, the fundicion.

Q. Which direction is the smelter from this property of which you speak? Is it east or west?

A. On the south.

Q. Which is nearer to where we now are, the smelter ruins or your house?

A. The same distance; it is the same d'stance.

170 Q. How far is your house from the smelter ruins?

A. About fifteen varas.

Q. Going from here to your home, do you have to pass your house before you reach the smelter?

A. I pass to the road that is at the smelter in going to my house.

Q. Do you pass the smelter ruins before you reach your house?

A. Yes, sir.

Q. Which side of the arroyo is your house?

A. On this side.

Q. Do you know where the boundary of the Talaya grant is—the west boundary of the Talaya grant?

A. Yes, sir.

Q. Which side of the boundary are you?

A. I am opposite the boundary.

Q. Are you inside that grant or outside of it?

A. Outside of it.

Q. Do you know how your parents obtained title to the land that came to you by inheritance, as you say?

A. (No answer was given.)

Q. (Mr. FISKE.) What is the west boundary of the Talaya grant?

A. That arroyo that we are speaking of.

Q. You are on this side and not on the other side?

A. I am on this side.

171 CASILDO LUCERO, a witness called by the attorneys for the city of Santa Fe, in the line of defense and rebuttal as aforesaid, being duly sworn, and examined by Mr. Fiske, testified as follows:

Q. What is your name?
A. Casildo Lucero.
Q. Where do you reside?
A. I live at Santa Fe; in precinct number three.
Q. Do you know where the boundaries of an alleged grant called the Talaya are claimed to be?
A. No, sir.
Q. Do you know where arroyo hondo empties into the smelter?
A. Yes, sir.
Q. Do you know where the Talaya Mountains are?
A. Yes, sir.
Q. Do you live within those boundaries?
A. Yes, sir.
Q. For how many years have you lived there?
A. About twenty years.
Q. Are you the owner of property there?
A. Yes, sir.
Q. Under what title have you claimed that property? Under the Santa Fe town claim or under a claim of some other grant?
A. Under the right of the Santa Fe grant.
Q. Are there other people living up there near you?
A. Yes, sir.

172 Q. Do you know under what title they claim to hold their property?
A. No, sir.
Q. How far from the head of the acequia madre do you live?
A. About three hundred yards.

Cross-examination by Mr. PURDY:

Q. What is the property which you have where you state?
A. My house.
Q. How much ground beside your house—how many varas?
A. I do not have any land—only a small orchard.
Q. About how many varas?
A. About eight yards.
Q. From whom did you get that property?
A. I bought it.
Q. From whom?
A. I bought it from Ramon Mestas, for a home.
Q. When?
A. About ten years ago.
Q. Did you get a paper title or deed?
A. Yes, sir; I have it.
Q. Do you know from whom he bought the property?
A. Yes, sir.
Q. From whom?
A. He bought from Chapita Vigil, deceased.
Q. Do you know from whom Vigil bought the property?

A. No, sir.

173 Q. How then do you claim your title under the Santa Fe grant, if you do not know the source of your title?

A. Because that is the way they all claim.

Q. Who told you you claimed under the Santa Fe grant?

A. Nobody told me.

Q. How did you find out you held under the Santa Fe grant?

A. Because I have heard the conversation.

Q. Who did you ever hear?

A. The people.

Q. You say they all claim under the Santa Fe grant; who do you mean by all? Name some person.

A. I do not know who they are.

Q. (Mr. FISKE.) You know the people up there?

A. No, sir.

Q. Don't you know your neighbors?

A. Well, yes, I know my neighbors.

Q. Well, is it your neighbors you talked with on the subject?

A. No, sir.

Q. Who did you talk with?

A. With the people on the street.

Q. People here in Santa Fe—in the town?

A. Yes, sir.

Mr. PURDY. That testimony will close the case No. 116, of the Talaya Hill Grant. I am ready now to proceed with case No. 72, of

174 the Chamisos arroyo grant, M. J. Nagel et al., claimants, lying entirely within the Santa Fe grant.

M. J. NAGEL ET AL. *vs.* THE UNITED STATES. } Chamisos arroyo grant. No. 72.

Mr. PURDY. I offer in evidence in this claim these original grant papers in reported number 74, as presented yesterday, of date August 24th, 1742; present these as exhibit number two in this claim.

Mr. REYNOLDS. Objection, that they are the originals and not in the proper custody; should be in the archives. The proper instrument for claimants to have would be the testimonio.

Mr. FISKE. We object for the town that on their face, if properly produced from the proper custody, they are mere allotments, inside the town, and not a separate grant, and part of the town jurisdiction and grant.

Mr. PURDY. I offer in evidence opinion of the surveyor-general, as exhibit three, of date February 19th, 1873.

Mr. FISKE. We object to it as incompetent and immaterial.

Mr. PURDY. These are the only documentary evidences of this grant.

175 M. J. NAGEL, called as a witness by Mr. Purdy, in sustaining his case in chief, No. 72, Chamisos arroyo grant, and by way of defense to the case of the City of Santa Fe, being duly sworn, and examined by Mr. Purdy, testified as follows:

Q. Please state your name and age.

A. M. J. Nagel; age, forty-nine years.

Q. Where do you reside?

A. I live nine thousand two hundred and forty yards from the monument in the plaza.

Q. What part of the town of Santa Fe do you live in?

A. Southeast of the city.

Q. How far?

A. Nine thousand two hundred and forty feet.

Q. Do you know a piece or tract of land known as the Chamisos arroyo grant?

A. Since I am here I heard about this grant, and bought one part of some of the heirs of it.

Q. Do you live within what you understand to be the limits of that land grant claim or tract?

A. Yes, sir; on the southeast side.

Q. Which side of the arroyo de los Chamisos do you live? North side or south?

A. Southeast side.

Q. How far from the arroyo Chamiso'?

A. My land extends to the arroyo Chamiso'.

176 Q. Do you own the property on which you live?

A. Yes, sir.

Q. How did you acquire title to it?

A. From six different families—Mexican families—and have had possession of it for twenty years and more.

Q. Name some of the persons from whom you purchased. Have you title paper?

A. I have got title papers.

Q. Have you them with you?

A. Not with me.

Q. You have no deed with you?

A. From the deed, from this.

Q. Is this a part of the land on which you live?

A. No, sir.

Q. For what land is this deed?

A. This is the deed of the Marques and Padilla grant to me.

Q. Then the house you spoke of is not within this grant?

A. No, sir.

Q. How far from the line is it?

A. About two hundred yards.

Q. What direction?

A. Southeast.

Mr. PURDY. I offer this paper in evidence of the title claimed by the witness in this grant now under consideration.

177 Cross-examination by Mr. FISKE:

Q. How long have you lived here?

A. Three years.

Q. Where did you come from?

A. Missouri; Jefferson, State of Missouri.

Q. You don't pretend to know anything about the grant?

A. Except what the heirs told me the grant was.
Q. That was about the time you purchased, in 1892?
A. That was the time I purchased, but I heard about it when I came here.
Q. You never heard about it until three years ago?
A. No, sir.

REFUGIO MARQUEZ, called as a witness by Mr. Purdy in support of his client's claim to the Chamisos arroyo grant, and in defense to the case of the City of Santa Fe, being duly sworn, and examined by Mr. Purdy, testified as follows:

Q. State your name and age.
A. Refugio Marquez; sixty-three years old.
Q. Where do you live?
A. I live in Santa Fe.
Q. What was the name of your mother?
A. Loreta Roybal.
Q. What was the name of your father?
A. Jose Marquez.
Q. What was the name of your father's father?
178 A. Bartolome Marquez; he was my grandfather.
Q. Do you know any person by the name of Rosaria Marquez de Corkins?
A. Yes, sir.
Q. Is she a relative of yours?
A. Yes, sir; her mother was a first cousin of mine.
Q. Who was the father of Rosaria Corkins?
A. Antonio Padilla.
Q. Who was the mother of Rosaria Corkins?
A. Ascension Marques, the daughter of Jose Maria Marques.
Q. Who was the father of Ascension Marques?
A. Jose Maria Marquez.
Q. Who was the father of Jose Maria Marquez?
A. Bartolome Marques.
Q. Do you know any tract of land called the Chamisos arroyo grant or Marquez y Padilla grant or tract of land, in the vicinity of Santa Fe?
A. Yes, sir.
Q. Please state in what direction it is from where we are now.
A. I do not know.
Q. State east or west from where we are now?
A. It is on the south side of the river of Santa Fe.
Q. Is it north of the Chamiso' arroyo?
A. Yes, sir.
Q. Do you know where there is a house that was built by John H. Knaebel several years ago near this town?
179 A. I do not know it.
Q. How far is this piece of ground from the cathedral of Santa Fe?
A. I do not know the distance; it is near.
Q. Is it within two miles?
A. Less than two miles.

Q. Do you know by whom that tract of land was claimed to have been granted—who claimed that tract of land, if you know?

A. We claimed it because it belonged to us; it belonged to my grandfather.

Q. What was the name of your grandfather?

A. Bartolome Marques.

Q. How did he claim to have it—by purchase or otherwise?

A. By grant.

Q. From what source?

A. From the king.

Cross-examination by Mr. FISKE:

Q. When did you first see this grant?

A. It is about twenty years ago. I saw it before, but it is about twenty years ago that I saw it; I had it in my house, in my possession.

Q. Are you one of the makers of this deed to Mr. Knaebel?

A. No, sir; not I.

Q. Did you ever make any deed to your interest in it?

180 A. Yes, sir; I sold.

Q. Who did you convey to?

A. To Mr. Knaebel.

Q. Is that the place where his house is up there?

A. Yes, sir. I sold the right I had there. I do not know where he built his house.

Q. You don't know what your right was, do you?

A. I knew that I had a right there, through my grandfather, but I did not know where.

Q. Who told you you had a right there?

A. The deeds themselves.

Q. You knew you had a right there under those deeds?

A. Yes, sir; and that is what I sold.

Q. Did you read them?

A. Yes, sir.

Q. Do you read both in Spanish and English?

A. No, sir; I can read a little in Spanish.

Q. Can you read much? Can you read well?

A. Not very well.

Q. Can you read writing?

A. Very little.

Q. You can read printed matter, but you cannot read writing, is not that it?

A. I never read any.

Q. You do not know how to read, do you?

A. Yes, I do know how to read, but I have not read those things.

181 Q. Do yo know how to read Spanish?

A. Yes, very little.

Q. Very little? You cannot read very well?

A. Not very well.

Q. Look at that and read a portion of it.

A. I cannot see well, I have not got my glasses with me.

Q. Who was it that first told you you had an interest in that grant?

A. I myself, who had the grant in my house and knew that I had a right there.

Q. You did not know what that right was?

A. I knew that I had a right there, but I did not know at what place, because it was not surveyed.

Q. You knew you had some right under that paper, but you did not know where the right was located?

A. I knew that we have a right on the hill there, but I did not know on which side, whether on this side or the other side of the tract—on this end or the other end.

Q. You knew you were within the town of Santa Fe, didn't you?

A. We are on the hill there; we are not within the town of Santa Fe.

Q. How far are you from the town?

A. I do not know; the documents may recite for themselves and you can refer to them.

Q. Then you don't know how far you live, how far your grant is from the town of Santa Fe?

182 A. It is very near.

Q. How near, then?

A. I do not know what distance.

Q. Is it a league?

A. No, sir; it is less.

Q. And you can not describe it at all?

A. I can not give a description of the distance.

Q. Is anybody living on the land now?

A. I don't know; the house of Mr. Knaebel is there; I don't know if he lives there or if he has other persons living there.

Q. Did anybody live there before Mr. Knaebel lived there?

A. I don't think anybody lived there.

Q. When did Mr. Knaebel go there? Or do you say Mr. Nagel?

A. I am not referring to Mr. Nagel; I am referring to Mr. Knaebel.

Q. How many years ago did he go there?

A. I do not know.

Q. About ten years ago?

A. I do not remember.

Q. Did he go there after you sold to him?

A. Yes, sir.

Q. How long ago did you sell to him?

A. I don't remember.

Q. Can you tell whether it is five or ten years—between five and ten years ago, was it?

183 A. I think it was ten or eleven years ago; I do not remember.

Q. Did you ever go to school?

A. Yes, sir.

Q. How long?

A. I do not remember how long.

Q. Where?

A. Here at Santa Fe.

Q. When Mr. Knaebel wanted to buy this property from you, did he come to you to purchase it?

A. He sent an agent.

Q. Who was it?
A. I do not know; I did not know him.
Q. How much did he pay you for that land?
A. For my right he gave me thirty-two dollars.
Q. You do not know how much your right was?
A. No, because we were eight heirs.
Q. Can you read writing like that? (Handing a paper to the witness.)
A. I have not got my glasses; I can not.
Q. If you had them could you?
A. I did not come here to read.
Q. We would like to have you read a little of this.
A. You can read it yourself.
Q. I am not able to read it and I want you to.
A. Somebody else can read it for you.
Q. Have you ever seen any writing like that?
184 A. I think so.
Q. Did you ever see that paper before?
A. I do not know; I do not remember.
Q. Could you remember if you took it and looked at it?
A. If I could read it I would, but——
Q. But you can not read it, can you?
A. No; I have not got my glasses.
Q. Try these glasses and see if they fit you.
A. No.
Q. You are not anxious to read, are you?
A. No; there are many persons here who can read.

Mr. PURDY. I protest against the badgering of this witness. She seems to be an honest woman.

FRANCISCO GONZALES Y CHAVES, called as a witness in support of the said Chamisos Arroyo grant claim, and by way of defense to the case of the city of Santa Fe, being duly sworn and examined by Mr. Purdy, testified as follows:

Q. What is your name?
A. Francisco Gonzales y Chavez.
Q. Do you know a tract of land in the vicinity of Santa Fe by the name of the Chamiso arroyo grant or tract of land, or by the name of the Marquez y Padilla tract of land?
A. Yes, sir; I know it.
Q. Please state where it is and how far from the plaza of Santa Fe.
A. It is to the south of the town of Santa Fe. It is probably
185 a mile, more or less, from the town.
Q. What do you call that tract?
A. The name by which I have known it is the grant of Bartolome Marques and Francisco Padilla.
Q. Do you know of any improvements on the property by way of acequias or other improvements?
A. Only an acequia known as the acequia of the remedios. It is an acequia or ditch across this land. It crosses the land.

Cross-examination by Mr. FISKE:

Q. Who first told you about this grant?

A. My mother-in-law, Juliana Garcia, told me of this grant.
Q. Was she interested in it?
A. Yes, sir.
Q. How long ago was that?
A. In the year 1857, she told me.
Q. Did she tell you you had an interest in it?
A. Yes, sir.
Q. You have an interest in it yet?
A. No, sir.
Q. Who did you sell to?
A. My wife sold to Mr. Knaebel.
Q. How did your wife get control of it?
A. As an heir of Francisco Padilla.
Q. But who were you an heir to?
186 A. I had an interest from my wife.
Q. Who was the agent of Mr. Knaebel that came to see you?
A. The deceased Ramon Padilla.
Q. Did he bring the grant along with him?
A. No, sir; I have the grant.
Q. You had the original grant, had you?
A. Yes, sir.
Q. Where did you get it?
A. My mother, Juliana Garcia, gave it to me.
Q. Did you ever read it?
A. Yes, sir.
Q. How long ago?
A. Since that time that I had it in my possession I read it frequently.
Q. Do you know how your mother got hold of this original?
A. She gave it to me, copied in typewriter, a copy of the petition of the grant and of the possession.
Q. She gave you a typewriter copy?
A. Yes, sir.
Q. So you have never seen this original at all?
A. I have never seen that original.
Q. When did she first show it to you?
A. She showed me this copied paper about twelve or ten years ago.
That is about the time you sold Mr. Knaebel, is not it?
A. Yes, sir.
187 Q. You had never seen the grant nor heard of it before that—before that time?
A. Not before the year 1857.
Q. Then you had heard of it, had you?
A. I heard nothing said about the grant before the year in 1857, but in that year my mother-in-law told me that Francisco Padilla had a grant there in which I was interested as an heir and also my wife.
Q. You never saw the papers at all, did you?
A. She also gave me a paper in which the grant was partitioned to Francisco Padilla and Bartolome Marquez, written by the alcalde, Altonio de Ulibarri, alcalde mayor of this town and its jurisdiction.
Q. Does that paper indicate that it was a distribution of land by the alcalde mayor of this town?

A. That he divided the lands of the grant to Bartolome Marques and Francisco Padilla, because they were both cograntees.

Q. When did that paper say they divided it?

A. 1735.

Q. (Mr. PURDY.) Have you that paper you refer to here with you?

A. Here, no; it is at home; my house.

Q. Can you read Spanish?

A. Yes, sir; I can read a little.

Q. Will you read that paper and say whether you ever saw a
188 paper of the same purport, whether that is a copy of any paper you ever saw before?

A. I do not understand these figures (reading).

Q. Look at that paper offered in evidence to see whether that is a copy of the paper you have in your possession.

Mr. FISKE. We object. If he has the original he should bring it.

Mr. PURDY. Will you please go and get the original and bring it here in the morning? I ask leave of the court to offer the original in the morning. I have here a copy of the paper and I ask leave to read that copy now.

(Mr. Purdy here reads the paper in question to the court.)

Mr. PURDY. I beg leave to offer this, with the original, in evidence in his case, and that completes all the documentary and other testimony that I have to offer in the case.

189 Mr. PURDY. I am now ready to proceed with the case of Albino Jose Dominguez vs. The United States, No. 105, for the Antonio Dominguez grant.

ALBINO DOMINGUEZ ET AL.
vs.
THE UNITED STATES. } Antonio Dominguez grant, No. 105.

Mr. PURDY. I offered yesterday in evidence Archive 239. The date of the grant is August 14th, 1742. It never was before the surveyor-general. This is an archive. I offer that as exhibit number two in this suit.

Mr. PURDY. I offer in evidence as a description by map of the land asked for what is marked exhibit number one, on file with the papers in this case.

Mr. PURDY. I offer in evidence as exhibit number three in this case Archive 345, of date April 20th, 1750.

W. M. TIPTON, called as a witness in support of the grant in question, and duly sworn, and examined by Mr. Purdy, testified as follows:

Q. Mr. Tipton, please look at that paper and see if it is what we understand as being an archive.

A. Yes, sir; this is one of the archives from the surveyor-general's office.

Q. And whether you recognize any signature there.

190 A. I recognize the signature of the alcalde attached to that and that of one of the witnesses, Felipe Tafoya. The other signatures I am not familiar with.

(Mr. Purdy here read to the court a translation of said document.) Thereupon he said: I offer in evidence an endorsement upon Archive No.

445, which archive I presented yesterday here in evidence in suit number 103 of the Juan Cayetano Lobato grant. This instrument is a deed of conveyance by the grantee from Antonio Domingues to Felipe Garduno, from Felipe Garduno to Juan Cayetano Lobato. I am mistaken; the endorsement is not upon the original paper on file. It is made upon the testimonio, on that same paper, the second original, which is filed here with these papers as exhibit number four. I will have to explain this: The Antonio Domingues lies within the Juan Cayetano Lobato. It is a case of merger, where a grant being made to Antonio Dominguez and purchased by Lobato, he, the latter, takes a grant including this, without boundaries. I offer this in the Antonio Dominguez claim as exhibit number 4 [presenting paper to the court].

Mr. PURDY. I offer in evidence, to assist in fortifying the boundaries of this grant to Antonio Dominguez, a copy of the grant to Luis de Armenta, which is found in reported number 68, of date September 11, 1733, the boundaries in which grant to Armenta are given as here translated.

191 (Mr. Purdy here proceeded to read said paper to the court.)

Mr. PURDY. I offer exhibit number fifteen of claim 103, before this court, for the Juan Cayetano Lobato grant, in this case.

That is all the testimony, documentary, that I have to offer in this case, number 105. I have no witness. I am ready to proceed with No. 103, Juan Cayetano Lobato.

An adjournment was here taken, to meet on to-morrow morning, April 25th, 1894, at ten o'clock.

192 APRIL 25TH, 1894.—*Morning Session.*

Met pursuant to adjournment.

JOSE M. LOBATO *vs.* THE UNITED STATES. } Juan Cayetano Lobato grant, No. 103.

Mr. PURDY. I wish to call Francisco Gonzales y Chaves, who was on the stand yesterday, to present the paper which I then asked him to bring, in case No. 72—the arroyo de los Chamisos grant.

FRANCISCO GONZALES Y CHAVEZ, recalled as a witness as before in said cause, examined by Mr. Purdy, he testified as follows:

Q. Have you the original paper which you swore to yesterday?

A. Yes, sir.

Q. Produce it.

A. (Witness produces a paper.)

Mr. PURDY. This is the original act of partition of the Padilla and Marquez grant in the year 1845.

Q. Where did you get this paper, and when?

A. I obtained it in the year 1857, from my mother-in-law.

Q. Was she related to either one of the grantees—Padilla or Marquez? Was she interested in the grant of land at the time?

A. Yes, sir.

193 Q. Is she one of the persons you stated yesterday had sold to Mr Knaebel your interest?

A. She did not sell. My wife and myself sold the interest.

(It is admitted by the U. S. attorney, on the part of the United States, that the signature to the last-mentioned paper is genuine.)

Mr. PURDY. To proceed with case No. 103, of the Juan Cayetano Lobeto grant, I offer in evidence the original grant papers in this case as exhibit number two, being archive 445, the original grant, dated August 22nd, 1742; and as exhibit number one is offered the map of the claim in this claim.

Mr. REYNOLDS. I object to the introduction of these papers because the description is so indefinite and uncertain that the grant can not be located, and because at this stage it is aided by no testimony.

Mr. PURDY. I offer in evidence in this case as exhibit number three the testimony of archive number 445, which is presented. Endorsed upon this testimonio is the deed of conveyance read yesterday in the Antonio Dominguez case of the Antonio Dominguez grant, lying within the limits of this land we are now claiming.

Mr. PURDY. I offer herein as exhibit number four a copy and translation of exhibit number three last named, and this is offered to show the endorsement of date March 21st, 1771.

194 Mr. PURDY. As exhibit number five I offer a copy of the grant made of Marquez and Padilla, of date August 4, 1742, of land next east of the land now claimed, which grant cites Juan Cayetano Lobato as bounding the Marquez and Padilla land asked for on the west.

Mr. PURDY. Exhibit six, copy of the grant made to Jose Duran, of archive number 237, of date August 16, 1843, wherein Juan Cayetano Lobato is cited as being the owner of the land next north of the land asked for in this petition of Duran's.

Mr. PURDY. As exhibit eight I offer a copy and translation of the deed of Antonio Domingues to Felipe Garduno, being Archive No. 345, dated April 20th, 1750. I offer it as an archive, and it bears the signature of Ulibarri, who was the alcalde at that time.

Exhibit nine, a copy and translation of deed from Miguel Coca and wife, Maria Montoya, to Maria Josefa Lopez, of date April 17th, 1827. It is Archive 440, and its genuineness, unless attacked, I suppose will be presumed. It is offered for the purpose of showing the houses referred to in the original petition, wherein the petition states this boundary a road coming from the house of one man, and in the certificate of possession describes a road coming from the house of another man of another name.

Exhibit ten, copy and translation of archive 408, of date April
195 8th, 1755, showing the existence at that time of acequias upon and within this land.

Exhibit twelve, copy and translation of Archive 85, of the grant to Juan Leon Brito, of August 20th, 1742, offered herein to tend to show the north boundary of the land claimed in this case.

Exhibit thirteen, copy and translation of grant to Luis de Armenta, from reported number 68 of the surveyor-general's office, of date April 19th, 1733, herein offered to help show the northern boundary of the land herein claimed.

Exhibit fourteen, the depositions here taken of Guadalupe Lujan and of Justo Lobato, on the 29th day of August, 1893, taken before his honor Judge Fuller. Justo Lobato, whose deposition is here taken, is

aged and debilitated. I had him here the first five days of this session, expecting to give his testimony orally instead of having to produce his deposition, but he sickened and had to go home. He lives at Chilili, and is unable to be here.

Mr. FISKE. We object to this deposition, on behalf of the town of Santa Fe; that the town has had no notice and no opportunity to cross-examine, and does not wish to be bound by anything which is in these depositions. I have lived in this country long enough to know that a deposition taken without cross-examination is of very little value as evidence.

Mr. GILDERSLEEVE. I wish further to object to the introduction because of the terms of the stipulation included in the deposition, as it appears therein.

196 Mr. FISKE. I desire to offer in evidence in all these cases the petition for the grant of the cienega to the town council. I desire to offer this as soon as I can have it translated. It is to be filed in the Santa Fe case.

Chief Justice REED. The cases you have submitted are numbers 72, 103, 105, and 116.

Mr. PURDY. In concluding presenting these defenses or cases against the city of Santa Fe I desire to file now copies of the three papers that were not ready—typewritten—in their course in filing, on part of the De Vargas. The other papers were all filed except these. (Presents papers to the clerk.)

197 Mr. LAUGHLIN. I have a case similar to those of Mr. Purdy which I desire to present, as in conflict with the Santa Fe case. It is No. 180, of the Roque Lobato grant.

MAGDALENA L. DE ORTIZ
vs.
THE UNITED STATES. } Roque Lobato grant. No. 180.

Mr. LAUGHLIN. This grant, known as the Roque Lobato, was made by the governor in 1785 to a piece of land running along the south of the road, running along the foot of the hills, on the west the road leading from this town to Tesuque, and on the east the hills, and on the north the arroyo, or hills on that side.

Mr. CHARLES F. EASLEY, called as a witness herein, being duly sworn and examined by Mr. Laughlin, testified as follows:

Q. State your name and official position.

A. Charles F. Easley, surveyor-general of New Mexico.

Q. Have you in your possession papers known as the title papers for the Roque Lobato grant?

A. Yes, sir.

Q. Will you please produce them?

A. (Witness produces papers.)

Q. What have you there?

198 A. Spanish papers. A and B purport to be the title papers in the Roque Lobato case, reported number 52.

Q. What is the paper marked in red ink B.

A. That is the petition of Roque Lobato for a piece of land, piece of public land, in the suburbs of this city, according to the translation I

have here. The petition does not seem to be dated, but the action of the governor here, on the 23rd of September, 1785.

Q. What does this paper contain?

A. It contains the petition, "at the town of Santa Fe," &c. (reading from paper), and the action of the governor and captain-general, and then it purports to be an order also requiring all parties owning adjoining claims of land to come forth on a certain day and show their title; also to show if there is any objection to the matter of the petition of Roque Lobato, and so forth.

Q. State by whom this petition is signed.

A. The petition seems to be signed by Roque Lobato, and the action of the captain-general is signed by Juan Bautiste de Anza, and this order to the adjoining claimants is signed by Jose Maldonado.

Q. Mr. Easley, are these papers to which you have referred archive papers in your office?

A. This paper (holding paper in his hand) does not appear to be an archive. There is no number upon it indicating that it has ever
199 been on file with the archive papers and the briefing on the envelope containing this paper shows that it was filed in the surveyor-general's office on April 21st, '71, by Mr. Gwynn. This is B.

Q. Examine paper marked in red ink A and state whether that is an archive paper or not in your office.

A. There is nothing upon the paper to indicate that it is an archive, and the same memorandum, I judge, applies to this as I judge applies to the other, being filed at the same time, containing these papers, A and B.

Q. Are these all the papers that are in this file pertaining to this grant?

A. Yes, sir; I believe they are.

W. M. TIPTON, called as a witness by Mr. Laughlin, herein being duly sworn and examined by Mr. Laughlin, testified as follows:

Q. Examine the paper marked in red ink B, and state whether or not you are acquainted with the signatures attached to the several papers on this two sheets, by comparison with the same signatures in other papers in the surveyor-general's office.

A. I am not acquainted with the signature of the petitioner, Roque Lobato, but I am acquainted with the signature of Governor Anza, who made the grant, and with the signatures of Vicente Trancoso and Francisco Porez Serrano, the two witnesses who subscribed the granting
200 decree with him. I am also acquainted with the signature of Jose Maldonado, which is attached to what appears to be a citation upon adjoining owners of property.

Q. State whether or not in your opinion those signatures are genuine as attached to that paper—that is, the signature of the governor, Juan Bautiste de Anza, the signature of Maldonado, and the other signatures that you say you are familiar with.

A. In my opinion all of the signatures which I state I am familiar with are genuine which are on this document.

Q. Examine the paper marked in red ink A, and state whether or not you are acquainted with any signatures on that document; and if so, whether or not in your opinion they are genuine.

A. There are two of those signatures here that I could not express any very positive opinion about, considering them by themselves. I think I have seen the signatures of both the parties, but I am not very familiar with them. There is one signature here that I am familiar with and which appears to be the signature of Jose Miguel de la Pena, the chief alcalde of Santa Fe, but I do not believe that is his signature on this paper. I have seen his signature frequently and I do not believe that is his signature.

Q. Have you compared it with any other signatures of his?

A. Yes, sir; I have.

Q. Are there any other signatures on the paper than that of
201 Pena?

A. Yes, sir; there are what purport to be two. Felipe Sandoval Fernandez is one and the other Miguel Saen Garbisu. I have seen the signature of this man Felipe Sandoval Fernandez, and, although I am not familiar with it, I do not think that is his signature. As to this man Garbisu, I am not certain I ever saw an instrument with that name. There was a man named Manuel who lived about that time and witnessed instruments.

Q. Can you give any idea as to when that paper appears to have been written?

A. Well, it purports to have been written in 1795. I do not believe it was ever written at that time.

Q. Can you get any information from the appearance of the paper?

A. Well, I think this paper was written after steel pens came into use, and I do not understand that steel pens were used at that period, and they were not used in New Mexico until a very late period.

Q. From comparing it with other papers, then, you are of the opinion it was not written at that time?

A. I have not compared it with other papers as to the handwriting of the instrument at all, and from looking over it it impresses me that it was written with a steel pen, and I am equally positive that all the three signatures were written by the same person, and no one of them was written by Pena.

Q. There is a rubric to the signature of Pena. Have you com-
202 pared that with his other rubrics?

A. Not critically, sir, because Pena did not make his rubric with any regularity. He made it in different ways, as is shown by his signatures to papers in the surveyor-general's office. He made it with such irregularity that I do not think it could be depended upon in identifying his signature; but he wrote his signature with great regularity.

Mr. LAUGHLIN. Said paper is a deed purporting to have been made in 1795 to Jesus Rivera by Miguel Pena, the chief alcalde at that time, transferring the land, under their style of making deeds at that time, from the widow of Roque Lobato to Jesus Rivera.

I will offer in evidence, if the court please, the petition of Roque Lobato, the original petition of Roque Lobato, together with a translation and copy of the translation of the same, in triplicate, marked Exhibit A.

I will offer, as Exhibit B, the decree on the grant, signed by Juan Bautiste de Anza, the governor and captain-general at that time, together with a copy and translation of the same, in triplicate.

Then I offer as Exhibit C the order of citation, signed by Jose Maldonado, the original, copy, and translation in triplicate.

Then I will offer as Exhibit D the original and copy and translation, in triplicate, of that part of the act of juridical possession that I found—this paper—in the hands of the surveyor-general.

203 Mr. BARTLETT. All these are objected to, if it please the court, for the reason that the petition does not describe lands with any certainty, neither does the order of the governor; and the part that this man was placed in possession of under the act of juridical possession does not appear at all; also because the same are immaterial and incompetent.

Mr. REYNOLDS. The Government enters the further objection that the papers purport to be originals and were therefore not in the proper custody; should be in the archives, and the plaintiffs should produce the testimonio or copy.

Cross-examination by Mr. REYNOLDS:

Q. Mr. Tipton, this document signed by Pena, have you compared that document with other documents that you know to be genuine, believe to be genuine, containing the signature of Pena?

A. Yes, sir; I have compared it with a number of documents in the surveyor-general's office, all of which are archives of that office and which I presume to be genuine.

Q. They are so taken and understood to be genuine, are they?

A. Yes, sir; unless they are proven to be otherwise.

Q. Well, from your experience in that office and investigation of the signatures, and your recent investigations of this deed and the sig-
204 natures to it, state now your opinion as to the genuineness of the signatures attached to it.

A. The only signature on this deed which I compared with signatures acknowledged to be genuine is the signature of Jose Miguel de la Pena. I did not have time to find the signatures of the other two men, and although I know I have seen the signatures of one of them at least—but I did find a number of signatures of Pena and I have compared his signature on this document with his genuine signature and am convinced that what purports to be his signature on this deed is not his signature. There are a few peculiarities that strike one in examining his signature, and which appear in every signature of his that I have ever been able to find. One is, that the letters "o-s," following the "J" in his first name, are always connected together and are entirely separated from the letters preceding and following. This has been imitated in this forged signature, but indifferently. But the name Miguel he always abbreviated, so far as I have ever seen any of his signatures, writing it "M-i-g," following the "g" by a dot, and then writing the "l" slightly above and to the right of the "g," as was the custom. Also the dot over the "i" is in the form of what we call a comma. In the signature in this deed, the name Miguel is spelt out in full. The "g" does not bear the slightest resemblance to the very peculiar "g" noticed on his genuine signature, the stroke of the "g" passing below the line he never made straight. He made it
205 on a curve, with several sharp angles in it, from left to right—a most peculiar letter—and not even an attempt was made in this document to imitate that. Then the "d-e" following the Miguel he made in a very peculiar manner, which is better understood by looking at it than

can be described—creates the impression on people that he tried to make a capital "D," but did not makes the "d" in the style in which it is made in German—then immediately attached to it an "e," which comes down through the "d." He wrote the word Pena with a capital, while this word is written with a small "p." I have not had time to make a very careful comparison of these signatures, but the points I have mentioned, the general appearance of this signature compared with the others, convince me that this signature is not genuine. In addition to the fact that the writing on this deed shows that, to my mind, the three alleged signatures on this document were all written by the same person, and that person was the one who wrote the body of the instrument; and I do not believe that instrument was ever written with a quill pen, and steel pens were not in use in 1795 in New Mexico, and I do not believe they were anywhere else, although I am not positive on that point.

206 MAGDALENA LUCERO DE ORTIZ, called as a witness by Mr. Laughlin herein, being duly sworn, and thereupon examined by him, testified as follows:

Q. State your name and age.

A. Magdalena Lucero de Ortiz. My age is sixty-three years.

Q. Where do you live?

A. I live here in Santa Fe.

Q. You are the plaintiff in this case, I believe, of the Roque Lobato grant?

A. Yes, sir.

Q. How long have you lived in Santa Fe?

A. Since the year 1854.

Q. Is your husband dead or living?

A. He is dead.

Q. How long has he been dead?

A. Twelve years.

Q. What was his name?

A. Gaspar Ortiz y Alarid.

Q. Do you know a tract of land known as the Roque Lobato grant?

A. Yes, sir.

Q. In what part of the town is that grant situate?

A. Here on this side, at the place that they call the hill—la loma, where they say the garrita is—what they call the garrita.

Q. Did you ever reside upon that land?

207 A. Yes, sir.

Q. When did you live on it?

A. From 1854 to 1856 or '7, three or four years.

Q. Did you ever have in your possession, during the life of your husband or since that time, any papers pertaining to the title?

A. No.

Q. Are you interested in that grant?

A. Yes.

Q. How are you interested in it, by inheritance or by purchase?

A. By purchase.

Q. Do you know a man by the name of Jesus Rivera?

A. Yes, I know him.

Q. Do you know a man by the name of Ramon Sena y Rivera?
A. Yes, sir.
Q. Is he living?
A. He is living.
Q. Is Jesus Rivera living?
A. He is dead.
Q. Did you know a man of the name of Antonio Sena?
A. Yes, sir; I don't know if it is the same man you refer to, but I know that man that was called Captain Sena. His name was Antonio Sena.
Q. Is he living or dead?
A. He is dead.

208 Q. Do you know whether he testified before the surveyor-general in 1871 or 1872 in this case as a witness?
A. I don't remember. I don't know. He may have done it.
Q. Are you in possession of the land at the present time?
A. Yes, sir; I have always been.
Q. Are there any houses on the land?
A. Yes, sir.
Q. Is the house on the land, at the present time, that you formerly lived in?
A. It is there yet.
Q. You have possession of that house, have you?
A. Yes, sir.
Q. Do you know the boundaries of the grant?
A. No, I have not seen them myself. I know the boundaries from the papers.
Q. Can you state the boundaries?
A. I can say them.
Q. Examine this paper, Mrs. Ortiz, and say whether or not you ever had it in your possession.
A. I have not got my glasses here. It seems to be a paper that I had in my possession, but I cannot see well on account of not having my glasses here.
(The witness is supplied with glasses and answers:)
A. Yes, this is one of the papers I had in my possession in my house.

209 Q. Examine this paper and state whether or not you had possession of that?
A. It seems to me that it has been also among my papers. The name of Jesus Rivera is on it.
Q. Mrs. Ortiz, please examine that paper, marked A in red ink, and state whether or not you ever had that in your possession.
A. I never did examine the papers. I was not in the habit of examining the papers, but the appearances of it make me think it was also one of the papers in my possession. I had many of them. At the time when my husband died I laid all the papers aside.

Cross-examination by Mr. BARTLETT:

Q. Your husband, Don Gaspar Ortiz y Alarid, was the probate judge or prefect here in 1874 was not he?
A. I do not remember, but he was a judge in that same year that he died. He was a judge.

Q. Was he a probate judge about 1874?

A. 1874, I do not remember. He was judge for two terms. He was a judge when he died.

Q. That was in 1882, wasn't it, when he died?

A. I don't remember what year he died. It will be twelve years ago hat he died on this next month of July.

Q. And he had been judge once before?

A. Yes; I do not remember how many years before.

Q. About how many years before?

210 A. I don't remember how many years before.

Q. You say you are in possession of this land described in this grant? Please state how you are in possession.

A. I hold it that way as my own. I hold it just for my own. I pay the taxes on it all the time.

Q. On how much do you pay taxes—how many houses do you pay taxes on?

A. For all that I have. I do not know how many. I pay taxes for these houses which I have there and for the house in which I am living.

Q. You are not living now on this land, are you?

A. No, sir.

Q. You have not lived there for many years, have you?

A. At the beginning I lived three or four years, and then again I lived for a year.

Q. But you have not lived there for many years?

A. The last time I lived there was in the year 1860.

Q. Have you more than one house upon this grant?

A. Only the house that is built there. That is called la garrita. There is another place that they used as a magazine for powder, but there is the house only that they called the garrita.

Q. That is not the house you lived in?

A. It is right adjoining the house.

Q. Now, my question is, do you own more than one house upon this grant you have spoken of, that house being the one called the garrita over here?

211 A. Only what is included in the garrita and the house.

Q. How much ground is around that house and garrita?

A. I can not state how much.

Q. How many rooms has that house?

A. About five or six rooms. I have not been in it for very many years.

Q. It has fallen down and been misused for many years, has it not?

A. The garrita and the magazine, or the room used for storing gunpowder, are fallen down, but the house is almost in the same condition as when it was bought.

Q. Is it rented now to anyone?

A. It has been several years since it was rented, but there is always a person living there to take care of it.

Q. For whom?

A. For myself.

Q. You do not claim any other house on that grant, do you, than those you are speaking of now?

A. Not on that grant. I do not remember that I have any other.

Q. Do you know whether there are any other houses on that grant described in this paper?

A. I do not know. There are many houses there also. My husband told me they had built houses on that same place.

Q. But you don't know anything about that, and make no claim to that, I understand?

A. No.

212 Redirect examination by Mr. LAUGHLIN:

Q. Your husband in his lifetime sold the land where this schoolhouse stands on this grant for schoolhouse purposes, did he not?

Mr. BARTLETT. Objection, and not the best way to prove a sale.

Mr. LAUGHLIN. Well, I will withdraw that question.

Q. You say you have been paying taxes on this land and the house?

A. All the time; every year.

Q. How far is the old garrita from the house that you lived in?

A. It is near; I can not state the number of yards it is—about as far as from this place to the other corner. You can see everything on the hill from this window.

Mr. LAUGHLIN. Now, in reference to this paper, I know nothing in the world about it, except that it comes from the surveyor-general's office, and as I find it there I offer it in evidence for whatever it may be worth, for the consideration of the court in the case, as Exhibit C.

Mr. REYNOLDS. We object to that paper, on the testimony of Mr. Tipton, as being apparently not what it purports to be, to say the least.

Mr. LAUGHLIN. I offer the deed from Jesus Rivera to Ortiz for the same land, made in 1852, with translations and copies of the same, marked Exhibit D.

213 I offer also the testimony of Antonio Sena, before the surveyor-general, and the testimony of Gaspar Ortiz, who it appears is dead, befo' the surveyor-general, and then I desire to state to the court that I have made two efforts and went to the expense of hiring a team twice and sent out eighteen miles for this man Ramon Sena y Rivera. Yesterday the man returned, the son-in-law of Mrs. Ortiz. The old man started to come a couple of miles and had to turn back. He was not able to come, and of course if there are any objections, I can not offer the testimony in the case. He was a witness before the surveyor-general.

Then I will offer the original translations and copies of Exhibits G H I J K L M N which show receipts that the Mexican commander of the Mexican troops paid for rent of this house to Rivera, who sold the property to Gaspar Ortiz. I offer the originals, with translations and copies. I do not know anything about the genuineness of them or anything about them. They run from 1835 to 1846, and they seem to me to be originals.

Now, if the court please, I think it was on Friday or Saturday last I was working on this matter and I discovered in going over the record in the town of Jacona Grant a reference to this grant, in Archive 1261. I might have known it before, but I had forgotten it among all these things, and it was too late then for me to make my copies and get them properly

filed with the clerk under the rule, but I have consulted with Mr.
214 Reynolds and he makes no objection to the offer being made now.
The fact is, that grant was, it seems, perfect—I state that frankly to the court—made at the time, but that from some cause or other the act of possession is missing on this paper, and that in Archive 1261 the act of possession is there copied in that archive, and, as I stated frankly to the court, I do not know anything about that matter. There the land is described by so many varas, making an exact description, but it is not contained in any league or claim before the surveyor-general or in this evidence introduced here. I introduced this evidence simply because I had it here, and I do not care to file a matter and then not offer it. I offer for whatever it may be worth, but I think, on an examination by the court of the Archive 1261, that it will be found there that the grant for three hundred and twenty-five Spanish varas one way and two hundred and twenty-five or two hundred and seventy-five Spanish varas the other way is an exact and complete and perfect grant. I think that is the genuine grant there, and Mr. Reynolds has kindly consented that I may offer it now without any objection as to time, but I will have a copy and translation filed with the clerk just as soon as I can get it done. I only offer that portion in reference to the Roque Lobato grant.

W. M. TIPTON recalled as a witness. Examined by Mr. Laughlin, he testified as follows:

Q. Mr. Tipton, please examine Archive 1261, that part of it
215 referring to the Roque Lobato grant. State the pages upon which that appears, and what it appears to be, with reference to this document and archive number.

A. The corners of this paper are so torn that it is not possible to identify the numbers of the leaves.

Q. Mr. Tipton, examine the document in your hand, number 1261, and state the court what it is and what it contains.

A. This document is one of the archives of the surveyor-general's office, and is a manuscript book of leaves, all of which are sowed together. It contains a large number of records, brands for horses, mules, cattle, and so forth, and in addition to that it contains copies of seven different grants. On the last page it bears the signature of Governor Juan Bautista de Anza, of date the 25th of August, 1787. The record of most of the grants is in the handwriting of a man who was one of Anza's secretaries.

Q. Whose signature is attached to that?

A. The signature of Governor Juan Bautista de Anza.

Q. Does it contain the signature of anyone else?

A. No, sir; only the signature of the governor.

Q. Is that a genuine signature?

A. Yes; in my opinion, it is.

Q. Do you know where that book came from or whether it is what we designate as an archive in the surveyor-general's office or not?

A. It is not one of the papers turned over to the surveyor-general
216 when he first took charge of the office in 1854, and I do not know positively when it came into that office, but I think this number here on the last page, number nineteen, is a number placed there by Mr.

Samuel Ellison, who was the Territorial librarian, and who at various times sent to the surveyor-general's office such documents as he found in the Territorial library as he thought related to land titles.

Q. Does that book appear to be a genuine document? Does it purport on its face to be made by the authorities at that time when Governor de Anza signed it?

A. I never examined it clear through. I see nothing on it to indicate its official character except the signature of the governor and these handwritings with which I am familiar and which I know 'o be the handwriting of persons who were in the employ of the Government at that time. There is no statement on any portion of the book that I know of, of when it was made or by whom. Its contents show what it is.

Q. How many grants are recorded in that book?

A. Seven, I think I said. Yes, sir; seven grants. They are copies, of course; they are not originals.

Mr. LAUGHLIN. I will offer that part of that archive containing the Roque Lobato grant, and will furnish a translation.

A recess was here taken till two o'clock this afternoon.

217 AFTERNOON SESSION, *April 25th*, 1894.

Met pursuant to adjournment.

Mr. Laughlin states that he will submit the case (of the Roque Lobato grant), with the understanding that they claim only the land designated in the Archive 1261.

Mr. BARTLETT. I offer in evidence the files in reported number 88, surveyor-general's office, which is the petition and the testimony taken at that time on the application of Gaspar Ortiz y Alarid, husband of the woman who testified this morning, who at that time was probate judge here, for the allowance of four leagues to the people of Santa Fe.

Mr. LAUGHLIN. Objection on the ground that it is irrelevant and immaterial in this particular case.

Mr. BARTLETT. I offer in evidence plat of the city of Santa Fe grant, approved by the surveyor-general, 1878, filed in the surveyor-general's office. This is offered and filed in the Santa Fe case, number 80.

ALBINO LOPEZ, called as a witness on behalf of the city of Santa Fe, in rebuttal, sustaining said grant, and as defense to the said grant of Roque Lobato, being duly sworn and examined by Mr. Bartlett, testified as follows:

Q. Where do you live?

A. I live now at Embudo Station.

218 Q. Did you ever live at Santa Fe?

A. Yes, sir; I was born in Santa Fe.

Q. Did you know Don Gaspar Ortiz in his lifetime?

A. I knew him well.

Q. State if at any time he was probate judge of this county.

(Objection by Mr. Laughlin because the records of the county are the best evidence.)

Q. Acting as probate judge?

The COURT. Answer the question.

A. Well, I do not recollect if . I know he was two terms probate judge of this county.

Q. Do you know in what year?

A. Indeed, I don't. I don't recollect if was in '74 or '72 that that time was.

Q. Can you tell whether he was acting as probate judge in '74 and '76?

A. Yes, sir; about that time I know he was, about that time.

Q. And he served a term afterwards, you say?

A. Yes, sir.

Q. You are acquainted with his widow, who testified here this morning?

A. Very well.

Q. Was he her husband?

A. Yes, sir.

Q. Don Gaspar Ortiz was her husband?

A. Yes, sir.

219 Cross-examination by Mr. LAUGHLIN:

Q. How long had you known Gaspar Ortiz before he died?

A. Since I could know the people of Santa Fe; must be since about '46 or '47.

Q. Do you know where he lived in 1852?

A. Yes, sir; right there on the loma there; that house there.

Q. Is the house standing now?

A. Yes, sir.

Q. Do you know how long he lived there?

A. I don't know; I know he lived there several years. I was living here in Santa Fe then, when he lived there.

Q. Do you know where the Roque Lobato grant is?

A. No, sir.

Q. You don't know what year he was probate judge the first term, do you?

A. The first term; no. It was after 1870, I know, but I do not recollect whether it was 1872, or '74, or '76. I do not recollect. I know he was probate judge at that time.

Q. How many times was he probate judge?

A. Two terms.

Q. When was he probate judge the last time?

A. I think about '82 or '83 that time.

Q. Did he hold any other official positions in Santa Fe County?

A. Yes, sir.

Q. What were they?

A. No; no other positions that I know.

220 Q. Do you know where the garrita is?

A. Yes, sir.

Q. Where is it?

A. It is right back of Don Gaspar's house, back of Gaspar Ortiz's house. Back, about twenty yards back. That used to be the old magazine for the Mexican Government, where they used to keep the powder.

Q. So the Mexican army used to keep its ammunition and powder a'd military stores there?

A. Yes, sir; there is a room there where they used to keep the powder and ammunition.

Q. Do you remember when there were any Mexican troops here?

A. I recollect I was six years old when the United States took hold of New Mexico.

Q. Is there a burying ground on the loma?

A. Back of the garrita, they called it. That is the burying ground from Santa Fe as long as I can recollect, back, I don't know, one hundred or two hundred years ago.

Q. What is meant by the word monayo (?)?

A. That is garrison, where the soldiers live.

Q. Where was the garrison of Mexican soldiers?

A. Along in here, right back there, where the soldiers used to live.

Q. How far up that way did they live?

A. I think up to the last of the fences there the houses used to run.

221 Mr. BARTLETT. The purpose of this testimony was to show that the husband of the claimant of the Roque Lobato grant petitioned the Government to approve this grant to the city of Santa Fe in opposition to this grant which she is now claiming within the Santa Fe league.

CLARENCE KEY, called as a witness by the U. S. attorney herein, being duly sworn, and examined by Mr. Reynolds, U. S. attorney, testified as follows:

Q. What is your name?

A. Clarence Key.

Q. Where do you reside?

A. Santa Fe.

Q. Are you familiar with the Spanish language?

A. Yes, sir.

Q. Are you familiar with the archives known as the Spanish archives in the custody of the surveyor-general?

A. Yes, sir; I have examined them.

Q. Have you had occasion from time to time to examine documents there, and make examination with reference to testing the genuineness of signatures as well as the genuineness of instruments themselves?

A. Yes, sir.

Q. Have you had occasion recently to make examination and comparison of this instrument with those in the archives which purport

222 to be originals, in order to test the genuineness of signatures of that instrument?

A. Yes, sir.

Q. I will get you to state, from the examination you have made and the comparisons you have made, whether or not you believe this instrument to be genuine.

A. As compared with the signatures of Jose Miguel de la Peña in the archives, my opinion is that this is not his genuine signature.

Q. Now, with reference to the execution of the entire instrument as of the date it purports, what would you say about it?

A. The paper on which it is written is Spanish paper, but in my opinion this instrument was written with a steel pen, and I do not think it was written at the date it purports to have been written—that is to say, 1795.

Cross-examination by Mr. LAUGHLIN:

Q. When did you compare this paper, with other papers and the signatures, with reference to the genuineness of this signature?

A. Yesterday afternoon, sir; in the surveyor-general's office.

Q. And you came to the conclusion, did you, that this was not the genuine signature of Jose Miguel de la Peña?

A. Yes, sir.

Q. You know nothing about it further than what you have stated, do you?

223 A. I have answered such questions in regard to it as I have been asked. I do not know what further I know. For instance, I know lots of things about it. I know that it is a paper filed in this case, but I do not think that is pertinent. I say in my opinion it is written with a steel pen. I did not testify it was written with a steel pen, because I did not see the man when he wrote it.

Q. And this is, you say, Mexican paper?

A. No, sir; I did not say it was Mexican paper. I said it was Spanish paper.

Q. What is the difference between Mexican and Spanish paper?

A. I have recognized that, sir, as Spanish paper. I have lived a long time in Spanish countries and I recognize that as Spanish paper. I never saw that kind of paper anywhere else than from Spain.

Q. Then you consider this genuine Spanish paper?

A. Yes, sir.

Q. And you say it is not Mexican paper?

A. I do not think it is Mexican paper, sir. I recognize it as Spanish paper.

Q. What particular thing is there in this instrument in the body of the writing that leads you to believe it was executed with a steel pen?

A. I have been engaged in writing and the examination of writing and papers for many years. I have seen a great deal of writing done with quill pens and a great deal of writing done with steel pens, and

224 my experience leads me to believe that that was written with a steel pen. I have used steel pens and quill pens in my time and a good many of them, both kinds. That is all the reason I can give—my experience.

Q. There is nothing about the appearance of the paper or of the writing thereon, is there, to indicate that it was not written at the date purporting, except your opinion that it was written with a steel pen?

A. No, sir; nothing.

(Mr. Laughlin here stated that the foregoing concluded his case of the Roque Lobato grant and his defense therein to the case of the city of Santa Fe.

The attorneys for the city of Santa Fe also rested their case finally.

The United States attorney also stated that he had nothing more to offer in the foregoing cases.)

In the court of Private Land Claims.

CITY OF SANTA FE }
vs.
THE UNITED STATES. }

I hereby certify that the above and foregoing pages contain a full, true, and correct transcript of the proceedings had in open court in the above-entitled cause, on the days in said record mentioned, the same being numbered 80, of The City of Santa Fe, vs. The United States.

Santa Fe, N. M., , 1894.

R. C. GORTNER,
Special Official Stenographer of the Court of Private Land Claims.

225 And be it further remembered, that upon the trial of said cause there were introduced in evidence upon the part of said plaintiffs, certain exhibits, which said exhibits are in the words and figures following, to wit:

(Folio 226 is a map.)

227 1692.] PLAINTIFF'S EXHIBIT 1.

SOR. GOV. Y CAPP. GEN.: El cavildo, justicia y rexinte de la villa de Santa Fe de las Provinsias de la Nueba Mexico que hoy nos allamos en este Paraje del Rio del Norte en nombre y vos de toda la vecindad que se alla en dicho paraje y districto de la jurisdicion paresemos ante VSSA. en la forma de suplica y como mas convenga al derecho de esta Republica y premiso lo nesesario desimos: Que va por dose anos que se cumpliran por el mes de Octubre proximo venidero que como vasallos leales del Rey Ntro. Sor. emos estado y estamos actualmente hasiendo vesindad en este pais sin tener recurso para poder sustentarnos siquiera medianamente de solo maiz por causa de ser el puesto incomodo para ello pues la tierra es tan esteril que si no es a puro riego no se coje grano de ella. Y esto es no habiendo el inconveniente mayor de la cequia madre que el mejor tiempo para [illegible] y aunque se hagan muchas diligencias como las hasemos todos antes sirve de mayor inconviniente porque se estorban los unos a los otros conque todos venimos a quedar en la misma nesesidad y caso negado que la corriente de la acequia fuere permanente la falta de bueyes no nos diera lugar a alagarnos en la siembras por que lo trabajamos personalmente y aunque no fuera muy deficil el buscarlos el puesto no da lugar para poderse conservar ni criar ganados mayores ni menores ni menos caballadas con que poder traginar pues la consta VSSA. de la mucha gente que paso alli pocos dias de las pocas bestias que ante de VSSA. pasaron las mas de los vesinos y que tocante al vestuario sino fuera por los combalaches que hasen con los sres. soldados algunos anduvieran en carnes vivas y otros que salen a los
228 rodeos de minas que a fuerza de su trabajo buscan para camizas y naguas para sus mugeres y como estan tan distantes de repuesto cuando vuelven al como allan sus familias peresiendo de ambre lo poco que train lo venden a los Indios de los pueblos por bastimento para poderse mantener. Con que siempre sor. govor. quedamos en la misma nesesidad y mas no teniendo sitios ni tierras en que como propia cosa pudieramos obrar que aunque al Genl. Don Domingo Xironza de Cruzate fue mandado por el Supremo Gobierno diera possesion de tierras, aguas y abreva-

deros no sabe este Cavildo, justicia y rexinto que motivos tuvo para no executarlo y siempre con estos graves inconvinientes esta Republica a su mando [illegible] esto cavdo. just. y rexim. el que lo representemos a VSA. como lo hasemos para que VSSA. Siendo servido pues todo le constara a vista de ojos y como que tanto mira por vasallos de Su Magestad, atienda aquellas imposible el que esta Republica por los inconbenientes expresados pueda permaneser en adelante, antes si pareser a manos de la desnudez y ambre; y es acto lastimoso sor. gov. y capn. genl. que teniendo este Reyno de la Nueba Mexico por jurisdiccion declarada, hasta el Rio de Nombre de Dios, donde se allan puestos de muchas conbeniencias, allan de asistir en lo peor y a mersed de los Indios. VSSA como viva imagin del Rey nuestro Sor. se sirva de mirar por sus vasallos y que no parescan, pues milagrosamente nos sustentamos y cubrimos las carnes, y nos conceda su licencia, a todo esta Republica para poblar al puesto que mas comodo fuese del Rio de Nombre de Dios o Sacramento o Valle de San Martin, que donde quiera de las tres partes, so podra poblar la villa, desde donde serviremos a su Magestad como sus leales vasallos y estaremos en mejor sercania para nuestra conbiniencias; y por todo lo mas que alegar poder, en nombre y voz de esta Republica que aqui damos por expresado a VSSA. Pide y suplica
229 este cavildo Just. y rexid. a si lo provei y mande, que consideindolo asi VSSA., saldra toda esta Republica por el mes de Octubre que es el tiempo de mas convinencia; que en haserlo VSSA. asi; resibira este cavildo, justicia y rexidores, en nombre de la Republica, bien y merced; y juramos a Dios ntro. Sor. y al Senal de la Cruz X nras. y en mas de nuestras partes, que nuestro pedimento no es de malicia, sino por alcansar justicia, la cual pidimos, y en lo necesario.

FRANCISCO DE ANAYA ALMAZAN.
ANTONIO MONTOYA.
ANTONIO LUCERO DE GUDOI.
DIEGO MONTOYA THEBERSIO DE ORTEGA,
Secret. de Cav.

Auto.

En el Pueblo del Paso del Rio del Norte, en veinte y seis dias del mes de Junio de mil seiscientos y noventa y dos anos, ante mi, Don Diego de Vargas Zapata Lujan Ponce de Leon, Gov. y Capn. Genl. de este Reyno y Prov. de la Nueba Mexico y Castellano de sus fuerzas y presidios por su Magestad, el muy ilustre cavildo, justicia y rexid. asi mismo por su Magestad, presento la petition de la foxa antecedente, la que mande a mi Secretario de Gobierno y Gu'rra me la leyese en su presencia. Y en su cumplimiento abiendole echo oido y atendido con la atension que debo, mando que no obstante ser constante y justificado dicha su relacion que es comiserasion grave la que representan que esta de mi parte no soi capaz de remediarsela como menos de determinar la licensia que representa dicho illustre cavildo como en nombre de toda la Republica y vesindad para salirse a poblar a los puntos que cita para lo que solo el Excellentisimo Sor. Virey de toda la Nueba Espana puede con vista del titulo de merced o instrumento que para ello tubo el General Don Domingo Xironsa,
230 mi antecesor, de terminar su existencia y mandarme su grandesa lo que fuere y hallare mas conbeniente en el Ser. de ambas

procura a representar dicho muy ilustre cavildo a su excellencia con dicha peticion y este auto, y lo demas que hallare a su derecho por si y en nombre de la dicha su esindad, que yo de mi parte repito no puede satisfaserle en la concesion de la suplica solo si como leales vasallos que son de Su Magestad que tanto lo han mostrado en la obidiencia y asistencia que han tenido en este dicho puesto conservandole es exhorto y requiero en nombre de Su Magestad a dicha Republica les den a entender no hagan novedad mas que la dicha representacion a su Excellencia dicho Sor. Virey que como principe y ser tan soverano y ser lugar teniente del Rey Ntro. Senor asistira a proveer el alivio que representan pedir y para que conste de este dicho auto como devolverselo con el dicho pedimento original lo provei y firme en este Pueblo del Paso con asistencia de mi Secretario de Gobierno y Gerra en dicho dia, mes y ano ut supra.

Don Diego de Vargas Zapata Lujan Ponce De Leon.

Ante mi,

Juan Paez Hurtado,

Secretario de Gno. y Gerra.

231 [Sur. Gen'l Archive, No. 816.]

1692.] Plaintiff's Exhibit 2.

To the Governor and Captain-General:

The corporation, magistrate, and councilmen of the "villa" of Santa Fe, of the province of New Mexico, that are to-day at this place on the "Rio del Norte," in the name of all the inhabitants residing in this place and district of the jurisdiction, appear before your excellency in form of supplication and as may best suit the rights of this community; and promising whatever may be necessary, we say that it is nearly twelve years, which will be up in the month of October next, that as loyal vassals of the King our Lord, we have been and are residing in this country, without the means to keep ourselves middlingly on corn alone, because the place is unsuitable, for the land is so sterile that except by constant watering no grain can be gathered. And this when the greater difficulty does not occur of the main ditch drying at the best of times [illegible], and even if the greatest diligence is used, as we all do, it serves rather as a greater difficulty, because they dispute one with another. So that we all come to the same need, and, even in the impossible case of the ditch being safe, the want of oxen would not allow us to extend the plantations, as we work personally; and even were it not so difficult to find them, the place does not afford a spot to maintain them on nor to breed cattle or sheep, nor still less horses with which to do work, for your excellency knows how many people passed within a few days and with how few horses they passed before you, mostly belonging to residents; and that, as regards clothing, were it not for bartering with the soldiers some of us would be going naked, while others who go off to work in the mines by
232 dint of labor seek a shirt or a skirt for their wives, and as they are so far from stores when they return, as they find their families starving, they have to sell the little they bring to the Indians of the Pueblos for supplies to maintain themselves with. Hence, we are ever kept, your excellency, in the same straights, the more so that we have no farms or lands in which to labor as on our private property, for

although the General Don Domingo Xironza de Cruzate was ordered by the supreme Government to give possession of lands, waters, and watering places, this corporation, magistrate, and councilmen do not know what motives he had for not so doing; and ever is this community, under your orders, under these great difficulties (illegible), this corporation, magistrate, and councilmen represent to your excellency as we do, in order that your excellency, knowing all this of your own knowledge, and caring as you do for the vassals of His Majesty, may be pleased to perceive that it is impossible for this community to remain here for the future, but rather will it perish of nakedness and starvation; and it is pitiable, Lord Governor and Captain-General, that this kingdom of New Mexico, having a declared jurisdiction extending to the river "Nombre de Dios" (Godsname) where there are places of great excellence, that we should have to dwell in the worst and at the mercy of the Indians. Your excellency, as the living image of the King our Lord, be pleased to protect his vassals, and that they may not perish, for we maintain and cover our bodies miraculously; concede us permission, to all this community, to populate the place which may be found most suitable on the river Nombre de Dios (Godsname) or Sacramento, or Valley of San Martin, for in any of the three places the "villa" may be populated, where we may serve His Majesty as his loyal vassals, and shall be better situated for our advantage; and for all the rest that we could allege in the name and
233 interest of this community, this corporation, magistrate, and councilmen pray and entreat that you will so decree and order for granting this, your excellency, all this community will leave about the month of October, which is the best season for doing so. Thus, your excellency, will this corporation, magistrate, and councilmen receive, in the name of the community, grace and mercy, and we swear before God our Lord and the sign of the holy cross (X) in our souls and those of our people, that this our petition is not malicious, but for the obtaining of justice, which is what we ask and what is necessary.

FRANCISCO DE ANAYA ALMAZAN.
ANTONIO LUCERO DE GODOY.
ANTONIO MONTOYA.
DIEGO MONTOYA.
TIBURCIO DE ORTEGA,
Secretary of the Corporation.

Decree.

At the town of Paso del Rio del Norte, on the twenty-sixth of June, sixteen hundred and ninety-two, before me, Don Diego De Vargas Zapata Lujan Ponce de Leon, governor and captain-general of this province and kingdom of New Mexico, and warden of the fortressess and garrisons of His Majesty, the very illustrious corporation, magistrate, and councilmen, likewise for His Majesty, presented the petition on the preceding page, which I desired my government and war secretary to read to me in their presence. And on this being done, having listened and attended thereto with the necessary consideration, I command that notwithstanding their statement is manifestly justifiable, and what they represent is truly pitiable, of my own self I am unable to remedy it, and

still less to grant the permission which the said illustrious corpora-
234 tion petitions for in the name of all the community and population, to leave and populate the places they mention, which only his excellency the viceroy of all New Spain can do after inspection of the grant, title, or instrument on which General Domingo Xironza, my predecessor, ordered them to remain; when his highness will determine whatever may be and he shall find most expedient for the benefit of all [illegible], let the very illustrious corporation endeavor to show his excellency, with this petition and decree, and whatever else they can adduce in support of their rights, for themselves and in the name of the said community, for I for my part repeat that I can not gratify them by granting their petition; but I do exhort and require them in the name of His Majesty, as His Majesty's loyal vassals, which they have fully shown themselves to be by their obedience and persistence in maintaining said place, that they make the community understand that they must make no change further than the said address to his excellency, the said viceroy, who, as prince and most sovereign lord, will endeavor to provide the relief they present themselves to ask. And that this may be manifest, I order that this decree be returned to them with the said original petition; this I have ordered and signed, in this town of El Paso, with the assistance of my secretary and government of war, on the said day, month, and year, ut supra.

DON DIEGO DE VARGAS ZAPATA PONCE DE LEON.

Ante mi,

JUAN PAEZ HURTADO,

Secretario de Gno. y Grra.

235 PLAINTIFF'S EXHIBIT 3.

Recopilacion de Leyes de los Reynos de las Indias.

[Tomo 2do. Libro IV. Titulo V. Ley VI.]

Que la Capitulacion para Villa de Alcaldes ordinarios, y Regidores, se haga conforme a esta ley. (D. Felipe Segundo, en Valladolid, Ord. 88 y 89.)

Si la desposicion de la tierra diere lugar para poblar alguna villa de Espanoles, con Concejo de Alcaldes ordinarios y Regidores, y huviere persona que tome asiento para poblarla se haga la capitulacion con estas calidades: Que dentro del termino, que le fuere senalado, por lo menos tenga treinta vecinos, y cada uno de ellos una casa, diez bacas de vientre, quatro bueyes, o dos bueyes, y dos novillos, una yegua de vientre, una puerca de vientre de Castilla, y seis gallinas y un gallo: asimismo nombrara un clerigo, que administre los Santos Sacramentos, que la primera vez sera a su eleccion, y las demas conforme a nuestro Real Patronazgo; y proveera la Iglesia de ornamentos y cosas necesarias al culto Divino, y dara fianzas, que lo cumplira dentro del dicho tiempo; y si no lo cumpliere, pierda la que huviere edificado, labrado y grangeado, que aplicamos a nuestro Real Patrimonio, y mas incurra en pena de mil pesos de oro para nuestra Camara; y si cumpliera su obligacion, se le den cuatro leguas de termino y territorio en quadro, o prolongado, segun la calidad de la tierra, de forma que si se deslindare, sean las quatro leguas en quadro, con calidad de que por lo menos disten los limites del dicho territorio cinco leguas de qualquiera ciudad, villa o lugar de Espanoles, que antes estuviere poblado, y no haga perjuicio a ningun pueblo de Indios ni de persona particular.

236 [Translation.]

Recopilation of the laws of the Kingdoms of the Indies.

[Vol. 2, Lib. IV, Tit. V, Law VI.]

Marginal. Given by King Philip the Second, at Valladolid. Ordinances 88 and 89.

If the condition of the land should give opportunity for the settlement of some town by Spaniards, with a corporation of ordinary magistrates and councilmen, and there should be some person who should select a site in order to populate the same, the charter shall be made with these conditions: That within such term as shall be therei' determined, he shall have at least thirty residents, and each of these shall have a house, ten breeding cows, four bullocks or two bullocks and two yearlings, one brood mare, one Castilian breeding sow, and six hens and one cock; as likewise he shall appoint a priest, who shall administer the holy sacraments, who for the first time shall be chosen by him and afterwards according to our royal patronage; and he shall provide the church with ornaments and necessaries for divine service, and he shall give securit'es for fulfillment within the aforesaid time; and if he should fail, he shall lose what he may have built, cultivated, and obtained, which we will apply to our royal patrimony, and further he shall incur a fine of one thousand dollars in gold for our supreme council; and if he should fulfil his obligation there shall be given to him four leagues of limit and boundary in a square or prolonged, according to the conditions of the land, in such form as that if surveyed it shall be four square leagues, under the condition that the limits of said territory shall be distant at least five leagues from
237 any city, town, or village of Spaniards which should have been previously populated, and shall not be projudicial to any pueblo of Indians or to any private person.

238 PLAINTIFF EXHIBIT 4.

Archive Terry library, No. 124, being Ex. "A," Alboq case.

Don Francisco Fernandez de la Cueba Enrriquez, duke of Albuquerque, marquis de Cuellar, count de Ledesme and Guelma, lord of the villas of Membeltran, La Codosera, Lansaita, Mixares, Pedro Bernardo, Aldea Davila, San Esteban del Villarejo, and Las Cuebas, commander of Guadalcanal of the Order of Santiago, and of Benfaver in that of Alcantara, gentleman of the bedchamber of his majesty, his viceroy, representative, governor, and captain-general of this New Spain and president of the royal audience of the same, &c.

Wherefore I ordered the following committee to be formed: At the general meeting which on July 28, 1706, his excellency, the duke of Albuquerque, viceroy, governor, and captain-general of New Spain and president of the royal audience of the same, held with the gentleman Don Francisco de Valensuela Venegas, knight of the Order of Santiago, Don Joseph de Luna, Don Baltazar de Tobar, Don Geronimo de Soria, oidores of the royal audience, Don Juan de Osaeta y Oro, alcalde de la Real Sala del Crimen, Don Andres Pardo de Lago, Don Gabriel Guerrero de Ardila, contadores del Real Tribunal de Quentas, Don Antonio de Deza y Vlloa,

knight of the Order of Santiago, and Don Joseph de Vrrtia, jueces officiales de la Real Hacienda, y Caxa desta Corte, the fiscal of His Majesty Doctor Don Joseph Antonio de Espinosa, knight of said order, being present,

Having examined at this meeting the proceedings and letters written to his excellency by General Don Francisco Cuerbo y Valdes, knight of the Order of Santiago, governor and captain-general of the provinces of New Mexico on April 26 last past, and those of the council of
239 justice and regulations of the villa of Santa Fe, on the 28th of the same, the certificates also sent by the said council on February 20, and that of April 16 of the Reverened Father Fray Juan Alvarez, of the original Order of St. Francis, custodio of the said provinces, the representation made to his excellency by the captain, ensign, sergeant, corporals of the line and the other corporals of the garrison of the said villa, and also the certificate of the petition made to Don Alonso Rael de Aguilar, alcalde ordinario of the villa of Santa Fe by the governors, casiques, and other chiefs of the tribes of that Kingdom and provinces. The contents of which having been reduced to separate points, upon them and upon each of them the fiscal of his majesty in his reply on the twenty-fifth of the present month gave his opinion, which, having been examined and considered with the attention required by the matter, and the decisions of former general meetings having been consulted, it was resolved as follows: On the first point, which relates to the payment of the salaries of the garrison of the villa de Santa Fe, in order that it be made punctually, which proposition is supported by the reverened father, custodio of the said provinces, it was resolved unanimously that it shall be borne in mind by his excellency in order that taking into consideration the urgencies and pressing demands of the monarchy and the defence of these dominions, so much insisted upon by his majesty, and the condition of the treasury of Guadalajara, where this must be paid, he shall issue the proper orders, as the said governor and garrison must know of the punctual payment of this garrison made by the treasury officials of Guadalajara (as appears by their certificates) of large sums and portions paid to this garrison and to its governor in their name even without having his excellency's order in regard to the express prohibition imposed upon
240 them, because of the necessity to fulfil the just obligation to assist all in accordance with the orders of his majesty, and the ability of the treasury, because of the stringency under which they labor.

On the second point, in which the garrisons insist upon being reimbursed for the eighteen dollars and odd deducted from their salaries and from those of all the others in Vizcaya to support the flying company of thirty men which was recently raised and established for the defence of the missions of the Rio del Norte in the province of Coahuila, it was unanimously resolved to follow the decision made in the general meeting of February twenty-six of this said year in order not to take any new steps in this matter until his majesty, who has been informed of the same, shall decide, and this petition should be treated in accordance with the decisions in regard to other garrisons of Vizcaya which have made the same representations, and they have been told that as it has been referred to his majesty they must await his royal decision.

The third point which the said governor presents, and upon which he consults his excellency, is that massing the forces of the said kingdom he will during the present year enter the province of Moqui to reduce it to obedience to his majesty and the church, because of the many lost souls which there are, and propriety and importance of providing for the better security of the peaceable Christian towns, as the apostate Indians hold it as a place of refuge from which to make their attacks. It was unanimously resolved that in view of its havin' been decided at former general meetings and in the orders that in accordance therewith were issued to the said governor, that he shall *that he shall* maintain and preserve
241 all that acquired by defensive war, refraining from the offensive, and endeavoring by the most gentle measures that his prudence and zeal in the service of both majesties may suggest to bring them to peace, obedience, and submission, and he shall follow this course; and he is informed that it having been decided in accordance with royal orders of his majesty to make offensive war on the Acoclame and Cocoyome Indians of New Biscay, and this having been done last year, new orders have been received now from his majesty that it shall be discontinued and be defensive only, and that methods suave and bland shall used with the rebels, avoiding as much as possible the shedding of blood in their reduction, which is made to apply to New Mexico and to the proposed expedition against the Moquis.

On the fourth point, in which the said governor refers to having reestablished the villa of Galisteo, bringing back to it the residents who had settled it and who were scattered over the country on account of the attacks made upon them by the rebel enemies, and also of having founded a villa which he called Albuquerque, and that it has no bell, altar furniture, chalice, nor vessels: It was unanimously resolved that as it is already founded it shall be aided as a favor, and that there shall be sent to it on the first opportunity the bell, altar furniture, chalice, and vessels, as asked for, this assignment being in accordance with the royal law of new settlements, and he being ordered not to make others without informing his excellency and consulting with him in regard to his reasons for the same, in order that he may send him orders as to what he shall do, his excellency adding that, as he has a royal order that a villa shall be founded with the name of San Felipe in memory of his royal majesty, the said governor is ordered to call it so for the future, and that this reso-
242 lution be recorded in the archives of the villa of Santa Fe.

On the fifth point, in which report is made to his excellency of what had been done in that kingdom, the wars carried on at the time he took possession, what had been accomplished by them, and the treaties of peace made with the tribes of the province and mountains of Navajo and the Apaches, placing the said kingdom in the condition of peace and quiet in which it is now, the Indians supporting themselves by the trade brought about between the savages and the other inhabitants, the kind treatment of them by him and the presents and clothes which the said governor gave them, all of which induced the governors, caciques, and chiefs of the tribes of the said kingdom and provinces apply to the Alcalde Ordinario of the said villa of Santa Fe, Don Alonso Rael de Aguilar, asking that he would write to his excellency and consult with him upon the great benefit and advantage that would result to the royal service by con-

tinuing the said governor in command: It was unanimously resolved that the said governor should be thanked by his excellency, and he will bear him in mind for promotion, and will represent his great merit and services to his majesty, as is done by royal decree, and that his excellency would maintain him in the governorship if the Marques de la Penuela, who is now in this city, had not been appointed to the place by his majesty, and thus they decided and set their rubrics, making eleven rubrics, and in order that the said governor may be informed of this resolution of the general meeting, and that he may keep it, obey it, and carry it out, I directed that the present be issued, it being understood that the agent of this royal treasury be directed to purchase and forward by the first opportunity the altar furniture, bell, chalice, and vessels for the newly founded villa.

Mexico, July 30, 1706.

EL DUQUE DE ALBUQUERQUE.

243 By order of his excellency Don Francisco de Morales.

In order that the governor and captain-general of the provinces of New Mexico be informed of the resolution of the general meeting and the order given to the agent of this royal treasury to forward by the first opportunity the altar furniture, bell, and other things mentioned, it agrees with its original, from which I, Cristobal de Gongora, secretary of the council, copied it literally on four leaves with this one, and it is certain and true the sergeant, Matheo de la Pena, Juan Garcia Labrador, and Joseph Giltomey being present to see it corrected and compared, in the villa de Santa Fe, on the twentieth day of the month of October, one thousand seven hundred and seven, and on common paper, because stamped paper is not current in this kingdom.

In testimony of the truth I set my signature and usual rubric.

XPTTOBAL DE GONGRA, [Rubric]
Secretary of the Council.

244 Don Francisco Fernandez de la Cueba Enriquez, Duque de Albuquerque, Marques de Cuellar, Conde de Ledesma, y de Guelma, Senor de las Villas de Mombeltran La Codesera, Consaita, Mixares, Pedro Bernardo, Aldea Davila, San Esteban de Villarejo y las Cuebas, Comendador de Guadalcanal, en la Orden de Santiago, y de benfayar en la de Alcantara, Gentil hombre de la Camara de su Magestad, su Virrey lugar theniente governor. y Capitan-General desta Nueba Espana y Presidente de la Real Audencia della, &c.

Por quanto yo mande formar la junta siguiente: En la Junta general que en veinte y ocho de Julio de mill sietezientos y seis anos, tubo el Exmo. Senor Duque de Albuquerque, Virrey governor. y Capitan-General desta Nueba Espana y Presidente de la Rl. Audiencia de ella, con los Senores Dn. Franco. de Valensuela Venegas Cauallero del Orden de Santiago, Don Joseph de Luna, Dn. Balthasar de Tobar, Dn. Geronimo de Soria, Oydores de la dha. Real Audienzia, Dn. Juan de Osaeta y Oro, Alcalde de la Rl. Sala del Crimen, Don Andres Pardo de Lago, Dn. Gabriel Guerrero de Ardila, Contadores del Rl. Tribunal de Quentas, Don Antonio de Deza y Vlloa Cauallero del Orden de Santiago, y Don Joseph de Vrrutia, Juezes ofisiales de la Real Hazienda y Caxa desta Corte, pre-

sente el Senor Fiscal de su Magestad Doctor Don Joseph Antonio de Espinosa, Cauallero de dho. Orden: Hauiendose visto en esta Junta estos autos y cartas escriptas a su Exa. por el General Don Franco. Cuerbo y Valdes Cauallero del Orden de Santiago, Governador y Capitn. General de las Prouincias de la Nueba Mexico en veinte y seis de Abril procximo pasado, y del Cauildo, Justisia y Reximiento de la Villa de Santa Fe de veinte de Febrero, como del Reurendo Pe. Fray Juan Aluarez de la regular observancia de San Franco. Custodie de dhas. Prouincias de diez y seis de dho. mes de Abril; representasion que a su Exa. haze; el Capitan Alferez sargento, cauos desquadras y demas cauos
245 presidiales de dha. villa; y asimismo in zertificasion del pedimento que hizieron a Dn. Alonso Rael de Aguilar, Alcalde Ordinario de la Villa de Santa Fe, los Governadores, Casiques y demas Capitanes de las nasiones de aquel Reyno, y Prouincias. Cuyo contenidó se erduse a diferentes puntos sobre los cuales y cada uno el Senor Fiscal de su Magesd. en respuesta de veinte y sinco del corriente pidio lo que tubo per combeniente que visto y premeditado, con la atension que pide esta materia y haziendo reflexion a lo determinado en las juntas generales antesedentes se resolvio lo siguiente: En el primero punto que se reduze a la paga de los sueldos de los Presidiales de la Villa de Santa Fe para que se les haga con toda puntualidad cuya pretension coadyuba el Reurende Padre Custodio de dhas. Prouincias: Se resolvio de comun acuerdo se tenga presente por su Exa. para que segun las ynstancias y presisas probidensias de la Monarquia y defensa destos dominios tan encargada por su Magestad y segun el estado de las caxas de Guadalajara donde esta esta situasion, de las Ordenes combenientes en ynteligen sia que deve estar dho. gobernador, y presidiales de la puntual paga deste Presidio que hizieron ofisiales reales de Guadalajara (segun consta por su zertificasion) de gruesas cantidades y porsiones pagadas a esto Presidio y a su Goueron. en su nombre aun sin tener la Orden de su Exa. respecto de la *de la* prohiuision exeso que se les aduirto por ser presisa la justa considerasion de assistir a todos segun las ordenes de su Magestad posibilidad de las caxas por las estrecheses que padesen. En el segundo punto en que los Presidiales ynsisten sobre ser reintegrados en los diez y ocho pesos y tomines que se les reuaron y a todos los demas de la Vizcaya de sus sueldos para mantener la compania volante de treinta hombres que se erixio y crio nuebamente para defensa de las Missiones del Rio del Norte en la Prouinsia Cuaguila:
246 se resoluio de comun acuerdo se guardase io resuelto en la Junta general de veinte y seis de Febrero deste dho. ano para que no se hiziese nouedad en esta materia asta que su Magestad a quien le esta dada quenta lo determine debiendo correr esta instansia conforme lo determinado en dhos. presidios de la Vizcaya que a hecho la mesma representasion y se les a dho. porque siendo punto de que esta dado a su Magestad deue aguardarse su real resolucion; en el tersero punto en que dho. governor. representa y consulta a su Exa. que asiendo vnion de las armas de aquel Reyno entrara este presente ano a la Prouincia de Moqui a su redusion y obedencia de su Magestd. y de la Yglesia por tantas almas que ay perdidas y la combenienzia y ymportansia de la mayor seguridad de los Pueblos Xptianos pasificos por tenerla los Yndios Apostatas por refuxio de sus ynsultos; se resoluio de comun acuerdo que en atension a estar determinado en las Juntas generales antesedentes y ordenes que conforme a ellas

estan dadas a quel govierno de que se mantenga y conserue lo adquerido con la guerra defensiva escusandose lo ofensiba procurando por todos los medios mas suaues que dictare su prodensia y zelo al seruicio de ambas Magestades atraerlos a la paz obediensia y redusion obserue esto mesmo teniendo entendido que hauiendose determinado conforme a zedulas de su Magestad se hiziese guerra ofensiba a los Yndios Acoclames y Cocoyomes de la Nuebo Vizcaya y hechoseles el ano pasado se resiuo aora nueba orden de su Magestad para que sesase en ella consentandose solo con la defenssa y que se solisite por medios suaues y de blandura a los reueldes escusando quanto se pueda el berter sangre para redusirlos lo qual se haze adaptable a la Nueba Mexico y a la empresa que yntentan de Moqui; en el quarto punto en que refiere dho. governor. auerrestablesido la villa de Galisteo redusiendo a ella los vezinos que la poblauan y que se andauan
247 exparsidos por diuersas partes por las ostilidades que les asian los enemigos reueldes y asi mismo auer fundado vna villa que nombro Alburquerque y que le falta campana ornamentos calix y vinaxeras; se resoluio de comun acuerdo que respecto a estar ya fundada se le asista por futuria y se le remita en la primera ocasion la campana ornamentos, calix y vinaxeras que pide para ella por ser esta asignasion conforme a la ley real para las nuebas poblasiones ordenandole no pase a otra sin dar quenta a su Exa. y consultarle los motiuos que tubiere para que se le imbie la orden de lo que a de executar anadiendo su Exa. que hauiendo real zedula para que se funde una villa con el nombre de San Felipe en memoria del real de su Magestad se ordene a dho. governor. lo nomine assi para en lo de adelante y se asiente en el archibo de la villa de Santa Fee esta resolucion: en el quinto punto en que da quenta a su Exa. de lo obrado en aquel Reyno guerras que hauia al tiempo que tomo posesion lo que hauia executado en ellas con las pases que hauia hecho de las Rancherias de la Prouinsia y sierras de Nauajo y Apaches, redusiendo aquel Reyno a sosiego y quietud que se experimentaua manteniendose los Yndios con el comersio yntrodusido entre gentiles y domesticos el buen tratamiento que les hizo dadibas y bestidos que dio dho. governor. a unos y a otros que todo obligo a los governadores, casiques y demas capitanes de las nasiones de aquel Reyno y Prouinsias representasen a el alcalde ordinario de la villa de Santa Fee, Dn. Alonso Rael de Aguilar, pidiendo escribiese y consultase a su Exa. sobre las utilidades y combeniensias grandes que se siguirarian al Rael seruisio de que continuase en aquel govierno dho. governr.; se resoluio de comun acuerdo se le den las grasias por su Exa. a dho. gouernador y que lo tendra presente para sus asensos y representar sus muchos meritos y seruicios a su Magesd. como esta hecho por el real acuerdo y que su Exa. le mantubiera en el gobierno sino estubiera, para el probeydo por su Magestad el Marques de la
248 Penuela que se alla en esta ciudad, y asi lo resoluieron y rubricaron senalada con onze rubricas y para que dho. governor. se alle enterado desta resolusion de Junta general y la guarde cumpla y execute mande expedir el presente teniendo entendido sea librado despacho al factor desta Real Caxa para que compre y remita en primera ocasion el ornamento, campana, calix y vinaxeras para la villa nuebamente fundada. Mexico y Jullio treinta de mill sietecientos y seis anos. El Duque de Albuquerque. Por mandado de su Exa. Dn. Franco. de Morales. Para que el Governor. y Capitan genl. de las Prouincias de la Nueba Mexico se alle enterado de la

resolusion de Junta general ynserta, orden que esta dada al factor desta Real Caxa para que remita en primera ocasion el ornamento campana y lo de mas que expressa.

Concuerda con su origl. de donde yo, Xptobal de Gongora, SSro. de Caudo., saque a la letra en cuatro foxas con esta y ba sierto y verdadero a que me refiero siendo testigos a lo ber correxir y consertar el Sarxto. Matheo de la Pena Ju. Garcia Labrador y Joseph Gilthomy, en la villa de Santa Fee, en veinte dias del mes de Octue. del ano de mill seteztos. y siete y en el papel ordino. por qe. el sellado no corre en este Rno.

En testtim. de verdad hago mi fira. y rubrica acostumbrada.

XPTTOBAL DE GONGRA. [Rubrica.]
Sro. de Cauildo.

249 EXHIBIT 5.

To the Very Illustrious City Council, Justice & Government:

The Captains Fernando Duran y Chabes and Baltazar Romero, residents of the villa of Albuquerque, in the name and with the authority of all of the citizens of the same, appear before your excellency and asking that all the privileges allowed by law be given them; they say that whereas the Señor General Don Francisco Cuerbo y Valdes, who was governor of this Kingdom and who in his time, because it appeared to him to be more advantageous, ordered that the said villa of Albuquerque be settled in the year of one thousand seven hundred and six, for which object and its due fulfillment he directed us to make public his desire that this Kingdom should be greater and that we should increase our estates, and not experience in the future the epidemics of the preceding years. He assisted us, because we had no lands to plant nor on which to raise our stock (and), although he gave them abundantly at the place where we now are, we did not decide to enter upon them because of our poverty and the danger from the enemies which surround us on all sides, reasons which obliged the said general to give us for our guard and defense a squadron of soldiers in order that they being present we might make some progress, reasons which induced us to leave Bernalillo, where we resided. Influenced by the desire to promote our welfare and comfort we were impelled to make oath and settle the said villa, and this having been accomplished the said General Don Francisco Cuerbo made a report of the same to His Excellency the Duke of Albuquerque, to whom he reported and explained the condition of the new villa [torn, a very small space] he had settled, and that for it he had given us said [torn same as above] reasons which caused the said viceroy to give [torn as above] an election, as appears by his order [torn as above], in our favor in order that it might so appear, and at the
250 same time he sent sacred vestments and altar furniture and a bell for the said villa, for which reason we believed that he was well pleased with the said settlement, urging upon the said general with much earnestness the necessity for the preservation and increase of the said villa of Alburquerque; and now the Señor Marques de la Penuela, governor and captain-general, at this time has been pleased to take away the said escort, for which reason the enemy, seeing our weakness, have dared barbarously to commit various robberies, every day carrying off our stock, taking it from our corrals, as is shown; and seeing that they are not punished

they may surprise us and destroy us and our wives and children, which may God forbid; and this they did not do before, although it is true that the' threatened us from afar, but they did not dare to attack, for they knew that the soldiers were almost upon them, and these are the reasons which have caused us to present a petition for the said citizens to the governor and captain-general in which it was prayed that he would be pleased to grant them the said squadron because of the circumstances set forth; and he replied in plain words that the petition was not admissable, and he did not grant it, and because of this we are left very desconsolate, and in order that we may not be so in the future we take refuge under the shadow and protection of your excellency, in order that as you are interested in the welfare and preservation of this community, since it is under your charge, you may present our cause, explaining to the said marques-governor and captain-general the reasons which compel us to make this representation and [torn, a very small space] admissible to remove [torn as above] said place, and to go where we may deem best, and that we may never be accused of contumacy, as it is our desire to serve his majesty. This we do without any mental reservation, and we protest the truth of the same; wherefore:

251 We ask and pray that your excellency will be pleased, in view of this our statement, to favor us by doing what we ask since it is just, and we swear by God [torn a very small piece from the margin] and the Holy Cross that this is not in bad faith and the royal aid in [torn as above] we pray and in that which is necessary, &c.

FERNANDO DURAN Y CHABES. [Rubric.]
BALTAZAR ROMERO. [Rubric.]

In the city of Santa Fe, on the fourteenth day of the month of April, of the year one thousand seven hundred and eight, before the council (cavildo de justicia y regimiento) of the same this petition was presented by the persons named in it, and it having been examined by us, the members, we admitted it, and in compliance with it we proceeded to present it to the governor and captain-general who said that he would apply the best remedy, and in order that it may so appear we sign this with our secretary of the council who will place this instrument in the files and papers of our archives for future reference.

IGNACIO DE ROIBAL. [Rubric.]
FRAN. LORENZO DE CASSADOS. [Rubric.]
PHELIX MARTINES. [Rubric.]
JUAN GARCIA DE LA RI [torn.] [Rubric.]
JU. DE VRIBARRI. [Rubric.]
JUAN PAEZ HURTADO. [Rubric.]

Ante mi:
[Torn.]

252 *Mui Vlustre Cabildo y rregimiento:*

Los Capitanes Dn. Phernando duran i Chabes y Balthasar Romero, vesinos de la villa de Albuquerque, en nombre i con poder i facultad de todos los vesinos de ella, paresemos ante Vsa. en la mejor bia i forma que aia lugar que mas nos conbenga, i desimos que por cuanto el Senor Genl. Dn. Franco. Cuerbo i Baldes, gobernador, que era de dho.

Reino quien en su tiempo por pareserle mas conbeniente, mando poblar dha. villa de Alburquerque el ano de mil setesientos i seis, para cuio efecto i debido cumplimiento nos mando a ser notorio la intencion que tenia de que fuera mas este Reino i adelantasemos nuestras asiendas i no esperimentaramos en lo adelante las epidemias de los anos pasados, nos asistio por causa de no tener donde sembrar nieriar nuestros ganados, aunque es berdad que lo di ampleo en el lugar donde asistimos no nos determinabamos a estender por la enopia i rriesgo de los enemigos que nos sircunbalan por todos cuatro bientos, motibos que obligaron a dho. Senor Genl. a darnos para nuestra guarda i defensa una escuadra de senores soldados para que estando de pie pudiesemos adelantar en alguna manera, motibo que nos obligo a desamparar el puesto de Bernalillo donde estabamos abesindados; llebados del interes de nro. bien i conbeniencia por lo que nos allamos presisados jurar i poblar dha. villa i conseguido asi luego iso informe dho. Senor Genl. Dn. Franco. Cuerbo a el exelentisimo Senor, duque de Alburquerque, a quien lo declaro i dio a entender el estado de la fundasion de la nueba villa [torn] abia poblado y que para ello nos abia dado dha. [torn] motibos que al dho. Senor Virei obligaron a dar p [torn] na eleccion, como consta de su mandamiento [torn] do a nuestro fabor, para que asi constase i juntamente remitio ornamentos y campana para dha. villa, por lo que nos
253 persuadimos llevo a mucho gusto dha. poblasion cargando con mucha eficasia al dho. senor genl. la conserbasion i aumento de dha. billa de Alburquerque i el dia de oi se a serbido el Senor Marques de la Penuela, Gobernador i cappn. genl. actual, de mandar rretirar dha. secolta causa que los enemigos mirando nuestra poca fortalesa se an atrebido Barbaros a haser distintos latrosinios llebandonos cada dia nuestros ganados arrangandose a los mismos corrales como consta i biendose sin castigo pueden de enboscada consumirnos con mugeres i hijos lo cual Dios no permita lo que de antes no asian que aunque es berdad que nos amenasaban era mui de lejos y no se atrebian por que conosian que los soldados casi les pisaban la sombra i estos motibos fueron causa de aber benido nosotros a presentar una peticion de dhos. vesinos ante dho. Senor Gobernador i Cappn. Genl. en le suplicaban se sirbiese de consederle dha. escolta por las sircunstansias rreferidas quien nos a respondido con toda rresolucion de palabra no aber lugar nuestra admicion no provellandonos dha. peticion por lo que nos a dexado mui desconsolados i para no estarlo en lo de adelante nos rrefugiamos debajo de la sombra i amparo de Vssa. para que como interesados en el vien i conservasion desta republica pues la tiene a su cargo aga nuestra causas rrepresentandole a dho. Senor Marques, Gobernador i Cappn. Genl., los motibos que nos obligan a haser esta rrepresentasion i [torn] aber lugar nos de licencia de despoblarnos [torn] dho. puesto i hirnos al que fuere de nuestra mejor [torn] beniencia i que en ningun tiempo nos acus [torn] por rrebeldes pues nuestra intencion es serbir a su Magestad, lo cual no asemos con segunda intencion como asi lo protestamos la verdad por tanto:

A Vssa. Pedimos y suplicamos se sirba en vista desta nuestra
254 relacion de faborescrnos asiendo lo que llevamos pedido pues es justicia y juramos a Dios nuestro [torn] i la Santa † no ser de malicia i el Rl. augilio en [torn] imploramos i en lo nesesario &a.

FERNANDO DURAN Y CHABES. [Rubrica.]
BALTAZAR ROMERO. [Rubrica.]

En la Villa de Santa Fe, en catorze dias del mes de Abril del ano de mill setesientos y ocho, ante el Caudo. Justiza y Rexto. de ella, se presento esta petizn. por los contenidos y vista por nos los capitulares la ubimos por pressda., y en su efetto pasamos a hazerla representacion al Gour. y Capn. Genl., quien dijo daria la mejor providencia y para que asi conste lo firmamos con nro. ssro. de Gaudo.: quien pondra este ynstrumto. en los legajos y papeles de nro. archiuo para en lo de adelante.

IGNACIO DE ROIBAL. [Rubrica.]
FRAN. LORENZO DE CASSADOS. [Rubrica.]
PHELIX MARTINES. [Rubrica.]
JUAN GARZIA DE LA PI [torn]. [Rubrica.]
JU. DE VRIBARRI. [Rubrica.]
JUAN PAEZ HURTADO. [Rubrica.]

Ante mi:
[Torn.]

255 EXHIBIT 6.

Let it be notorious and know all who may see this letter of testimony that before me, Captain Joseph Ignacio de la Plaza, appeared Juan Griego and exhibited to a *a* grant title which he has in his favor, made to the sergeant Cristoval de Gongora, which was somewhat torn but free from any other suspicion, and its contents very complete, and he asked me to make a literal copy of it, the original to remain in the archive under my charge, and it is as follows:

(On margin:) Petition of Juan Griego:

The sergeant Cristoval de Gongora appeared before your excellency, Senor Governor and Captain General, asking that all the privileges allowed by law be given me, and I say that being in this kingdom, burdened with a family and not having a piece of land to cultivate, as a settler of this kingdom, for this reason I register a rancho uncultivated and unoccupied, which ruin was owned by Luis de Carabajal formerly, in the town of Alburquerque, between a rancho of Captain Diego Montoya and the house of Captain Baltazar Romero, and on the north it is bounded by lands of the said Captain Montoya, on the south by lands of Francisco Lucero, on the east by [Note: Here follow one or two words which I can not make out.—Translator.] mountain range, and on the west by the Rio del Norte, which rancho and agricultural lands are a little less than a quarter of a league in width, in order that I may be able to raise crops and some stock, with entrances and exits, free pastures, and watering places, uses, and customs. That your excellency will be pleased said grant in the name of His Majesty, directing Captain Martin Hurtado, alcalde mayor of that jurisdiction, to give real possession to the said Captain Baltazar Romero in my stead, and also granting me the favor to
256 allow me a long term for its settlement, in order that within such term [Note: Here follow three words which I can not decipher. Trans.] said tract; wherefore of your excellency I beg and pray that you will be pleased to admit this petition, granting me that which I ask, as it is just, and I swear by God our Lord and the Holy Cross that I do not act in bad faith, and that which is necessary, &c.

CRISTOVAL GONGORA.

(On margin:) Presentation.

In the town of Santa Fe, capital of this kingdom and provinces of New Mexico, on the twelfth day of the month of December, of the year one thousand seven hundred and eight, before me, Admiral Don Joseph Chacon, Medina Salazar Villasenor, caballero de la Orden de Santiago; Marques de la Penuela, governor and captain-general of the said kingdom and provinces of New Mexico, Castellan of the forces and garrisons by His Majesty.

(On margin:) Decree.

It was presented by the person named in it, and having examined it I admitted it with all the privileges allowed by law, and being advised of the justness of his petition I make to him the grant of the said tract he asks for, and I make it in the name of His Majesty, in order that as his own he may enjoy it for himself and his heirs without prejudice to any third party who may have a better right, and this decree shall serve as a special title for him, and I order the alcalde mayor of San Felipe de Alburquerque to give real possession in the form and manner asked by the petitioner, and without omitting a single point of that which I order.

257 And in order that it may so appear thus I provided, ordered, and signed with the undersigned secretary of government and war on the said day ut supra.

EL MARQUES DE LA PENUELA.

By order of the governor and captain-general:

ALONSO RAEL DE AGUILAR,
Secretary of Government and War.

(On margin:) Real possession.

I, Martin Hurtado, alcalde, mayor, and war captain of the town of San Felipe the Alburquerque, being informed as to the contents of the order as above issued by the marquis governor and captain-general of this kingdom of New Mexico, not discovering any other better right, proceeded to give possession to the said Captain Baltazar Romero, in the form and manner contained in the petition of the petitioner, the boundaries being those set forth in his petition, this possession being the most sufficient security that he may enjoy them as his own; and I grant it in the name of his majesty, the pastures, waters, watering places, entrances and exits free as he asks; and in order that it may so appear I signed it with assisting witnesses acting by delegated authority (receptoria), in the absence of a notary public or royal, of which there is none within two hundred leagues of this kingdom, and it is done on the tenth day of January, one thousand seven hundred and nine, in this town of Alburquerque. Before me, juez receptor, Martin Hurtado. Assisting witness, Francisco de la Candelaria; assisting witness, Juan de la Mora Pinada.

It agrees with its original, whence I, the ensign Joseph Ignacio de la Plaia directed it to be taken literally from its original to which I

258 refer. It is certain and true, corrected, and compared, and these were present to see it corrected and repaired: Captain Antonio de Chabes and Antonio de Luna, resident of this town of Alburquerque, where it is made on the nineteenth day of the month of May, one thousand seven hundred and twenty-six.

In testimony of truth I set my hand rubric.

259 Sea notario y sepan q. tos esta carta de testimonio vieren, como ante mi el Capp. Joseph Ignacio de la Palaza parecio Jun. Griego y me yso demostracion de una escriptura de merced que tiene a su favor otorgada a el Sargto. Xpl. de Gongora las que estavan algo rotas pero yndignas de otra sospecha, y a su contenido muy cabales, y me pidio la transitura a la letra quedando el original en el archivo de mi cargo, y es como sigue:

Peticion Por Jun. Griego.

El Sargto. Xptoval de Gongora parecio ante VSA Sor. Govor. y Capp. Genl. en la mejor via y forma que aya lugar en dro. y digo que allandome en esta Rno. cargado de familia, y no teniendo un pedaso de tierra para como poblador de esta Rno., por esa causa registro un rancho yermo y despoblado culla ruyna posia Luys de Carabajal antiguamte. en la villa de Alburquerque, entre un rancho del Cappn. Diego Monttoya y la casa del Capn. Balttasar Romero que por parte del Norte linda con tierras de el dho. Capn. Montoya, pr. el sur con tierras de Franco. Lucero, pr. el Oriente la [Note. There are one or two words here which I cannot read.—Translator.] sierra y pr. el Ponte. con el Rio del Norte, cuyo rancho y tierras de labor tendra de ancho poco menos de un cuarto de legua para poder sembrar y criar algun ganado, con entradas y salidas, libres Pastos y abrevaderos, usos y costumbres, sirviendose VSA dicha merced en nombre de su Mgd. mandando al Capn. Martin Hurtado, Alcalde Mor. de aquella Jurisdison, le de en mi lugar la Real Posecion a dho. Capn. Baltazar Romero, consediendome
260 algun tiempo dilatado ynterin lo pueblo para que devajo de este termino [Note. Here follow three words which I cannot read—Translator.] Dho. sitio y pr. tanto a VS pido y suplico se sirva de admitirme esta peticion, concediendome lo que lleva pedido, pues es Justicia, y juro a Dios Mossor. y a la Sta. Cruz no ser de malicia, y en lo nesso. &a.

XPTOVAL GONGORA.

Presentacion.

En la villa de Santa Fe, cavesera de este Rno. y Provinzas de la Nueba Mexico en dose dias del mes de Diciembre de mill setecientios y ocho as. ante mi el Almirante Dn. Joseph Chacon Medina Salasar y Villa, Sor. Caballero de la orden de Santiago Marques de la Penuela Govor. y Capn. Genl. de dho. Reyno y Provincias de la Nueba Mexico, Castellano de las fuerzas y Presidios por su Magesd.

Aucto.

La Presento el contenido; y por mi vista la hube por presentada en quato. a lugar en dro. y advertido lo justo de su pedimento le consedo la merced de dho. sitio que pide, y le ago en nombre de su Magd. para que como suyo lo gose por si y sus herederos, sin perjuicio de tercero que mejor dro. obtenga y este decreto le sirva de especial titulo y orden a el Alcalde Mor. de San Felipe de Alburquerque, de la Real Posecion en la forma, y segun y como el suplicante sin faltar un punto a lo que ordeno, y para que conste assi lo proba y mande firme con el Infrascrito Secrtario de Governacion y Guerra en dicho dia ut supra. El Marques de la Penuela por mando del Sor Govor. y Capn. Genl. Alfonso Rael de Aguilar, Secretario de Governacion y Guerra.

261 *Posecion real.*

Yo, Martin Hurtado, alcalde maor. y capn. a guerra de la villa de San Phelipe de Alburquerque, echo capas del aucto ariva proveydo por el Sor. Marques, govor. y capn. genl. de este Reyno de la Nueba Mexico, y no allando otro mejor dro. pase a dar posesion al dho. Capn. Baltazar Romero, segun y como se contiene en la peticion del suplicante siendo los linderos los que su peticion pronuncia siendo esta posecion la mas bastante seguridad para que los gose como propios, y le consedo en nombre de *de* su Magd. los pastos aguas abrevaderos entradas y salidas libres como lo pide, y para que conste lo firme con testigos de asistencia autuando por receptoria a falta de escrivano publico y real que no lo ay en mas de dos sientas leguas de este reyno y es fecho en dies de Henero de mill setecientos y nuebe, en esta villa de Alburquerque. Ante mi, lo juez receptor, Martin Hurtado. Tto. de assistencia, Franco. de la Candelaria. Ttestigo de assistencia, Jun. de la Mora Pineda.

Concuerda con su origina de donde yo, el Alferes Joseph Ignacio de la Plaza, lo mande sacar a la letra de su original a que me refiero be sierto y verdadero correxido y consertado y se allaron a la ver coregir y consertar el Capn. Anttonio de Chaves y Anttonio de Luna, vesino de esta villa de Alburquerque, en donde es fecho en diez y nuebe dias del mes de Mayo de mil setecientos y beynte y seis.

En testimonio de verdad ago mi firma y rubrica.

262 PLAINTIFF'S EXHIBIT, NO. 7.

Josse Apodaca, vessino de este villa de Alburquerque, paresco ante la grandessa de V. S. en la maz bastante forma que haia lugar en dro. y al mio combenga, y digo sor. qe. pr. cuanto tengo trabajade una sequia en esta villa junto con otros vessinos de esta dha. villa, y tenemos abierta lavor debaxo de dha. sequia pedimos los parsioneros juntos y mancomunados, y cada uno de por zi a la grandessa de V. S. nos de la pozession en nombre de S. M. (qe. Dios que.) en lo que tenemos travajado quedando libre lo demos pa. que entren los que quissieren en lo qe. ressibiremos merzed y justissia, juramos no ser de malizia esta nuestra petission, y en lo nessessarie.

DIEGO GONZALES.
PABLO ANAYA.
JOSSE APODACA.

En la villa de Sta. Fee del en treinta y un dias del mes de Agosto de mil setessientos ochenta y dos anos, ante mi, el Thte. Coronl. de Cavalleria Dn. Juan Bautista de Anza, govor. politico y militar de esta proa. del Nvo. Mexco., se pressente esta petission antessedte. y en atencion a lo qe. en ella se eexpressa como a el fomento de la villa de Albuquerque a cuio recinto corresponden los impetrantes, les consedo en nombre de S. M. (que Dios que.) de las tierras que ssoliccitan como no passen o exedan de las que puedan cultiver opportunamte. y con la calidad de que en ningun tiempo las puedan traspassar pr. ningun motivo a persona eclecca.
263 para lo qual comicciono y doi facultad qta. de dro. se requiere a Dn. Juan Franco. Baca, alcde. mor. de la jurisdission, digo de la nominada villa de Alburquerque quien en su virtud citando a las partes

colindantes y no resultando perjuicco de tercero prozedera a darles pozezion rl. y personalmte. de las enunciadas tierrs. con Dominio y primaccia de la sequia qe. expressn. a efecto de qe. no se les perjudique en su usso de las quales pressedera formales medidas de qe. con copia de todo le hta. aqui actuado les excivire titulos con expreccon de las varas qe. tenga o se le mercenen a cada parte de largo y ancho como de los nombres en quien se verifique lo qe. tambien se expressara a continuaccion de esta decreto y asi fho. se me remitan los correspondientes pa. tomar razon de ello en el libro de govierno.

ANZA.

264 [Translation Exhibit 7.]

Jose Apodaca, resident of the villa of Albuquerque, appear' before the greatness of your honor and asking that all the privileges allowed by law be given me, and I say, sir, that whereas I have opened an irrigating ditch in this villa together with other residents of this said villa, and we have prepared agricultural land under said ditch, we the associates ask together and in common and each one for himself of the greatness of your honor that you will give us possession in the name of His Majesty (whom may God preserve) of that which we have improved, the remainder being left free for those who may desire to occupy them by which we will receive benefit and justice, and we swear that this our petition is not in bad faith, and in that which is necessary.

DIEGO GONZALES.
PABLO ANAYA.
JOSE APODACA.

In the city of Santa Fe on the thirty-first day of the month of August of the year one thousand seven hundred and eighty-two, before me, Lieutenant-Colonel of Cavalry Don Juan Bautista de Anza, civil and military governor of this province of New Mexico, was presented the foregoing petition, and in view of that which is in it set forth, as well as for the improvement of the villa of Albuquerque, the petitioners residing within her boundaries, I grant to them in the name of His Majesty (whom may God preserve) the lands which they ask for, provided that they do not pass or exceed in extent what they can cultivate to advantage, and with
the condition that they shall never under any circumstances convey
265 them to any ecclesiastic, for which purpose I commission and give power to the extent that they may be required by law to Don Juan Francisco Baca, alcalde mayor of the jurisdiction of the said town of Albuquerque, who by virtue of the same shall notify all the adjoining landholders, and if there shall be no prejudice to any third party he will proceed to place them in real and personal possession of the said lands with dominion prior and right to the ditch which they mention, that they may not be prejudiced in its use, of which lands he will take exact measure, and with a copy of all that has been done up to the present he will issue titles to them with expression of the number of varas in length and width which each party may have or which may be given to him, and also the names of the beneficiaries, all of which he will also set forth in continuation of this decree, and it being done he will forward the same to me in order that it be entered in the book of the Government.

ANZA.

266 PLAINTIFF'S EXHIBIT, No. 8.

Entrada en esta, villa de Santa Fe dicho Gover y Cap. Gen.

1693, DICIEMBRE 10.

En diez y seis dias del mes de Diciembre de la fecha y ano, yo, dicho Gobernador y Capitan-General, serian las once del dia cuando con todo el dicho campo entre en esta villa de Santa Fe y habiendo llegado a vista de su pueblo amurallado que en ella tienen los Teguas y Tanos con el escuadron marchando y asi mismo el muy ilustre cabildo de esta dicha villa y reyno, trayendo su alguacil mayor y regidor pendolero el Capitan Don Fernando Duran de Chavez, el referido pendon que consta en estos autos que tienen guardado y con que se gano la tierra y habiendo llegado a su plaza se hallaban en ella los dichos naturales divididos mugeres y hombres sin armas y sin griterias sino con mucha compustura y diciendoles a todos salundandoles con el alabado sea repetidas veces respondieron por siempre y viniendo a pie el muy Reverendo Padre Custodio Fray Salvador de San Antonio y en su compania los quince religiosos sacerdotes y Reverendos Padres misioneros y los hermanos legos de nuestro Padre San Francisco, viniendo cantando diferentos salmos, me desmonte de caballo haciendolo asi mismo el dicho cabildo cabos y oficiales de guerra y el Alferez del real estandarte con el dicho Alguacil, mayor y regidor pendolero, que habiendo salido a recibir a dicha congregacion de dichos reverendos padres que con el dicho su muy reverendo custodio venian cantando en forma de prosesion hice la debida reverencia
267 viniendo, pasandola para entrar en dicho pueblo y plaza, haciendolo juntamente los referidos, y en medio de ella tenian una cruz puesta y hincados de rodillas todos cantaron diferentes salmos y oraciones con el Te Deum Laudamus, y por ultimo la Letania de Nuestra Senora, y habiendo dicho Reverendo Padre Custodio afinado el dicho canto y voz con sumo gozo y alegria, casi todos y aun sin faltar ninguno, no dejo de causarle mucha ternura el gozo en semejante lugar de volverse a recitar las dichas alabanzas a Dios Nuestro Senor y a Su Madre Santisima; y habiendo cantado el alabado por tres veces le di la enhora buena a dicho muy reverendo padre y a los demas, diciendole que no obstante de que el ano pasado, al tiempo de mi feliz conquista le habia dado la posicion al Padre Reverendo Presidente Fra Francisco Corvera que habia venido de los padres que vinieron juntamente a ella y por capellanes de dicho ejercito, lo cual dicho padre presidente habia presedido y tomado y asi y en nombre de esta custodia y a favor de su sagrada religion lo haria y se la volveria a dar con mucho gusto, pues con tanta resignacion toda con su padre muy reverendo y tan de su corazon y voluntad se comprometen en el empleo de la administracion de los Santos Sacramentos en este dicho Reyno, nuevamente conquistado, a lo cual respondio dicho muy reverendo padre dandome las gracias por si y por toda su religion y que con el instrumento de dicha posecion conque se hallaban referida y dada por mi, dicho Gobernador y
268 Capitan General, les bastaba para en guarda de su derecho y mas cuando entraban desde luego en la administracion de dichas Misiones, y despues al dicho cabildo le dije que lo restituia en la posecion du su villa y que asi mismo me den y diesen a mi, dicho Gobernador y Captan General, testimonio de haberla tomado, entrando de nuevo en ella y de la pasificacion de dichos Indios y rendimiento a la Divina y humana Magestad

asi mismo a dichos naturales en la dicha plaza de dicho su pueblo, les repiti y dije que el Rey Nuestro Senor me inviaba con noticia que di a su Real Magestad de su rendimiento el ano pasado, que se poblaze otra ves este Reyno que ya con la noticia que yo le habia dado de aberlos perdonado y de su obediencia que fue causa de dicho perdon, se le habia quitado dicho enojo y los volvia a llamar hijos y por eso remitia juntamente muchos padres para que fuesen Cristianos, como lo eran, y que tambien me remitia con los soldados que veian para que los defendiesen de sus enemigos. Que yo no venia a pedirles nada sino a dos cosas, no mas, a que fuesen Cristianos como debian ser, oyendo misa y resando las oraciones y sus hijos y mujeres yendo a la doctrina como lo hacian los Espanoles, y lo segundo para que estuviesen seguros de los Apaches y amigos todos y que esto era solo a lo que venia y no a pedirles ni quitarles nada; y el dicho muy reverendo custodio les aseguro mi buen corazon y la buena
269 intencion con que venian los Espanoles que no como ellos habian jusgado que a venir yo dicho Gobernador y Capitan General a matarlos, como decian ellos dichos, no hubiera venido y que asi no creyesen, sino lo que yo y su reverendo padre les dijese, a lo cual tambien les mande que si algun Indio tatolero mato, tenian que lo amarassen y me lo trajesen para averiguar la verdad de lo que el dijere y si fuese falso mandarlo luego alcabuzear que con eso viviriamos como hermanos y todos muy contentos; y habiendo pasado lo dicho nos volvimos a salir, dejandoles dicho su pueblo a buscar el puesto de mas abrigo, estando todo el suelo nevado, y solo reconoci haver al menio aia en las vertientes y faldas una mesa y montana ser de algun reparo, y asi en ellas se acuartelo conmigo dicho gober. y capt. general, despreciando la vivienda de un torreon que era lo que me tenian compuesto, teniendo echo en ella una hornilla, la cual un vecino me represento era perteneciente a la dicha su casa y por tal vivienda suya, a lo cual le dije se repararse junto a ella; y para que conste de la dicha entrada en la forma referida, lo firmo juntamente conmigo el dicho muy ilustre cabildo, y los cabos y oficiales de guerra juntamente con los dos Secretarios que en ella se allaron en dicha plaza, fecha ut supra.

DIEGO DE VARGAS ZAPATA LUJAN PONCE DE LEON. [Rubrica.]
LAZARO DE MEZQUIA.
ROQUE MADRID.
JOSEPH MIERA.
LORENZO DE MADRID.
FERNANDO DE CHAVEZ.
J. DE LEYBA.
XABIER DE ORTEGA,
Secretario de Cabildo.
JUAN DE ALMASAN.

Ante mi:

ANTONIO DE BALVERDE,
Secretario de Gober. y Guerra.

Para lo referido ante mi.

270 *Entry into this town of Santa Fe by the said Governor and Captain-General.*

DECEMBER 1ST, 1693.

On the sixteenth day of the month of December, date and year above, I, the said governor and captain-general, about the eleventh hour of said

day, made my entry into this town of Santa Fe, and coming in sight of the walled village where the Teguas and Tanos reside, with the squadron on the march and in company of the very illustrious corporation of this the said town and kingdom, its high sheriff and colorbearing alderman, the Captain Don Fernando Duran de Chavez, carrying the standard referred to in these acts and under which this land was conquered, we arrived at the square, where we found the said natives congregated, the women apart from the men, all unarmed and abstaining from any hostile demonstrations, but instead behaving themselves with great composure, and on prof'ering to them our greeting, saying "Praise to Him" several times, they answered "For ever;" and seeing the approach on foot of the very reverened father custodian, Friar Salvador de San Antonio, and in his train the fifteen monks, priests, and reverened father missionaries, and the lay brothers of our Father St. Francis, chanting on their march diverse psalms, I got down from my horse and *and* my example was followed by the said corporation, corporals, and officers of war, and by the ensign of the royal standard in company with the said high sheriff and colorbearing alderman, all having gone out with the one purpose of receiving the said reverened fathers, who, in union with their very reverened father custodian, came singing
271 in processional order, and then I made the obeisance as I was passing on my way to the entrance of said village and town, and the same thing was done by my followers; and in the middle of the square a cross had been raised, where all present knelt down and sang divine psalms and prayers, including the Te Deum, and in conclusion the Litany of Our Lady, and the said very reverened father custodian, attuning his voice, sang with such joy and fervor that almost every one without exception was 'ceply moved by the happiness of hearing in such place the praises of our Lord God and His Most Holy Mother. And after he had sung the hymn three times, I offered my congratulations to said very reverened father and the rest, telling them that notwithstanding that last year at the time of my happy conquest, I had given possession to the very reverened father president, Friar Francisco Corvero, who was one of the fathers who came at the time as chaplains to said army, which said reverened father president had witnessed and accepted, and in this manner and in the name of this order and in favor of his sacred religion would do it again and would grant it to him anew with great pleasure, considering the great resignation with which all, together with their very reverened father, did so heartily and freely agree to employ themselves in the administration of the holy sacraments in this said newly conquered kingdom; to which the said very reverened father answered, tendering his thanks for himself and all his order and that by the use of said grant invested and given by me, the said governor and captain-general, they had enoug' for their maintenance of their rights, much more when they entered immediately in the administration of the missions above mentioned; and then I spoke to said corporation and told them I restored to them the possession of their town, and that
272 likewise they ought and should give me, the said governor and captain-general, testimonials of having taken the same, entering again therein, and of the pacification of said Indians and their submission to the Divine and human majesty in the same manner. To the said natives in the plaza of said village, I told and repeated that our lord the king had sent me, on the news I gave his royal majesty of their surrender last

year, with orders that this kingdom should be repeopled; that with the information I had given of my having pardoned them and of their obedience, which was the cause of said pardon, all his displeasure had vanished and he would call them again his children, and for that reason he had sent many priests in order that they might be Christians as they were, and that likewise he sent me with the soldiers they saw for the purpose of defending them against their enemies; that I came not to ask anything of them, but only for two things: That they should be Christians as they ought, hearing mass and saying their prayers, and their sons and women attending the catechism as the Spaniards did; and the second was that they might be safe from the Apaches and friendly with all, and that this was my sole object in coming and not to ask or take away anything; and the said very reverend custodian assured them of my good heart and the good intentions which animated the Spaniards, which were not as they had supposed; that if I, the said governor and captain-general, had come to kill them as they said, he would not have come, and so they should give no credit to anything but what I and their reverend father told them; besides I ordered them that if they had among them any bad and malicious Indian they should tie him up and bring him to me to ascertain the truth about what he said, and, in case of falsehood, I would order his instant execu-
273 tion, and that in this way we could live as brothers and be very happy. And after this talk we went away again, leaving them their village, to seek a more protected site, the soil being covered with snow, and only about midday I found in the outflows and slopes a tableland and mountain susceptible of some repair, and therein I, the said governor and captain-general, established my camp the dwelling place, a tower house, which had been repaired for my occupation, having in the same a fireplace, which a resident told me belonged to said house and as such to : to which I replied he might repair near the same, and in testimony whereof regarding said entry, I signed my name in company with the very illustrious corporation and the corporals and war officers, likewise the two secretaries who were present therein in said town.

Dated ut supra.

DIEGO DE VARGAS ZAPATA LUJAN PONCE DE LEON. [Rubric.]
LAZARO DE MEZQUIA.
ROQUE MADRID.
JOSEPH MIERA.
LORENZO DE MADRID.
FERNANDO DE CHAVEZ.
J. DE LEYBA.
XAVIER DE ORTEGA,
Secretario de Cavildo.
JUAN DE ALMASAN.

Before me.

ANTONIO DE BALVERDE,
Secretary of Gov. and War.

I attest the above.

ALFONSO RAEL DE AGUILAR,
One of the secretaries of Gov't and War of the Governor and Captain-General.

274 PLAINTIFF'S EXHIBIT, No. 9.

ANO 1694.

Entrada de los carros en esta villa de Santa Fe, con las familias que vienen de Mexico y alojamiento que luego incontinenti dicho gobernador y capitan general personalmente en ella les senala.

En veinte y tres dias del presente mes de Junio de la fecha y ano serian al parecer las nueve de la mañana cuando entraron los carros de esta custodia que conduce como su procurador general que es de ella el Reverendo Padre Fray Francisco Farfan y en ellos trae las familias que el excelentisimo Senor Virrey, Conde de Galves, de este reyno y de todo el de la Nueba Espana y haviendo desembarcadose en esta villa de Santa Fe, luego yo, dicho gobernador y capitan general de dicho reyno y provincias de la Nueva Mexico, con asistencia de mi secretario de gobernacion y guerra, justicia y regimiento del ilustre cabildo de el, cabos militares y oficiales de guerra de su presidio por la lista de dichas familias que mi lugar teniente general Maestre de Campo Luis Granillo, me dio hise desde luego la diligencia de senalarle su alojamiento y vivienda en esta dicha villa, estrechando para ello a los que existentes pobladores en ella se hallan y de la misma suerte en dicha atencion a los que nuevamente se pueblan hasta que comodamente puedan, haciendo sus viviendas estenderse los unos y los otros y para que conste de quedar integramente acomodados lo firme, con los dichos cabos militares alguacil mayor y regidor, con mi secretario de gobierno y guerra, siendo sesenta y una familia y media las que por dicha lista entraron y para que conste, lo firme yo, dicho gobernador y capitan general, con los dichos ut supra.

DIEGO DE VARGAS ZAPATA LUJAN PONCE DE LEON. [Rubrica.]
ANTONIO JORGE. [Rubrica.]
ANTONIO BALVERDE. [Rubrica.]

Ante me.

ALPHONSO RAEL DE AGUILAR. [Rubrica.]
Secretario de Gobernacion y Guerra.

275 YEAR 1694.

Entry of the wagons into this town of Santa Fe, bringing the families who came from Mexico, and places of lodgment which were immediately assigned for them personally by said governor and captain-general.

On the twenty-third of the current month of June, date and year above, the hour being about nine in the morning, happened the arrival of the wagons of this custody governed as its procurator general, by the Reverened Father Friar Francisco Farfan, and in them came the families sent hither by his excellency the viceroy, Count of Galves, of this kingdom and of the whole of New Spain, and on their having stopped at this town of Santa Fe, I, the said governor and captain-general of said kingdom and provinces of the Nueva Mexico, did immediately, with the assistance of my secretary of government and war, justice and regiment of the said illustrious corporation, of the military corporals and officers of war of his department, according to the roll of said families which my lieutenant and field master, Luis Granillo, presented to me, I forthwith took measures to assign them lodgment and dwelling places in this said town, making room for the purpose between the settlers living therein and in the same fashion in that particular to those who newly established themselves here until

they may comfortably erect their houses and extend themselves one and the others, and in testimony that they remain substantially lodged, I sign this in union with the said military corporals, high sheriff, and alderman, with my secretary of government and war, there being sixty-one families and a half, who, according to said list, effected their entry, and in
276 testimony whereof I, the said governor and captain-general, sign the same, together with the above mentioned.

Ut supra.

DIEGO DE VARGAS ZAPATA LUJAN PONCE DE LEON. [Rubric.]
ANTONIO JORGE. [Rubric.]
ANTONIO BALVERDE. [Rubric.]

Before me.

ALPHONSO RAEL DE AGUILAR, [Rubric.]
Secretary of Government and War.

This translation is substantially correct.

PHACON, *Translator, C. P. L. C.*

277 No. 3.] PLAINTIFF'S EXHIBIT 10.

That the masters of doctrine employ Indians in spinning, weaving mantas, stockings, or any other things without my express license or any other person acting in my place, and above all it is recommended the liberty and relief of the friendly Indians, and that the enemies who are at peace be not allowed to come into the pueblos of this custody. Whenever they may come to trade they may do so, stopping outside, so as to avoid inconveniences that might result of informing themselves of our forces. Dated at the villa of Santa Fe on the seventh day of January, seventeen hundred and sixty-four.

DON DIEGO DE PENALO FABRIZOND. [Rubric.]

By command of the Gov. and Capt. Gen'l.

JUAN LUCERO DE GODOY, [Rubric.]
Secretary of Government and War.

278 PLAINTIFF'S EXHIBIT 11.

Extract from a transcript of a simple decree sent by the royal Audience of Mexico to the Governor of these provinces, dated January 9th, 1621.

"That things that might be of importance to the common welfare of the baptized Indians and to the universal preservation of the republic to the Spaniards and Indians will be consulted with you the governor of the villa of Santa Fe and two other definers, if there be any; if not, with two of the most ancient priests of that custody and the council of said villa, captains, and ensign that he may see convenient; that all having heard it, my said governor may only provide what may be more proper to my service that he may proceed in everything with prudence, wisdom, and consideration vested in his person; and if any of those found in said meeting be of contrary opinion not agreeing with you, the said my governor may ask for a testimonio, which will be given him in the presence of all, in the form above referred, and persons aforementioned, should my said governor would be found in said villa of Santa Fe, headquarters of all this provinces.

Dated at the City of Mexico on the 9th day of the month of January, sixteen hundred and twenty-one years."

279 N. 208.] PLAINTIFF'S EXHIBIT 12.

Provincia del Nuevo Mexico.

Extado que manifiesta el numero de vasallos, y havitantes que tiene el Rey en esta Prova., con distincion de estados, clases y castas, de todas las personas de ambos sexos, con inclucion.

Nombres de las poblaciones.	Hombres.	Mugeres.	Ninos.	Ninas.	Total.
Villa de Sta. Fe, Rl. Preso. y sus agregados	1,689	1,631	236	281	3,733
Yo. de la Canada y sus yo	3,821	2,804	1,139	1,075	8,839
Yo. de Albuquerque e yo	2,232	2,089	862	716	5,959
Jurisdiccion de los Qres "	1,552	1,364	474	403	3,793
Yo. de Zuni y Laguna	1,311	1,107	471	434	3,323
Yo. del Paso del Rio del Norte	1,317	1,302	773	652	5,244
Totales	12,478	10,837	3,311	3,667	30,293
Resumen gral. de Espanoles	5,396	5,312	1,891	1,817	14,416
Ydo de Yndios	4,124	3,914	1,410	1,216	10,664
Yo. " Castos	2,221	2,223	807	622	5,873
Totales	11,741	11,443	4,118	3,655	30,953
Resumen gral. de ecctos. regu	28				28
Yo. de casados	9,732	9,732			13,464
Yo. de viudos	530	1,160			1,630
Yo. de solteros y ninos	2,188	5	3,911	3,667	15,771
Liquidos total	12,478	10,897	3,911	3,667	30,593

STA. FE, *Novre.* 20, 1790.

280 N. 208.]

Province of New Mexico.

State and condition of the number of vassals, inhabitants which the King has in this province, with distinction as to condition, sex, and race of all persons of both sexes included.

Names of inhabited places.	Men.	Women.	Boys.	Girls.	Total.
City of Santa Fe & surrounding settlements	1,585	1,631	236	281	3,733
" " of La Canada " "	3,821	2,804	1,135	1,075	8,835
" " of Albuquerque " "	2,232	2,089	862	716	5,359
Jurisdiction of Queres Indians	1,552	1,364	474	403	3,793
" of Zunis & Lagunas	1,311	1,107	471	434	3,323
" of The Pas Rio del Norte	1,317	1,302	773	652	5,244
	12,478	10,837	3,311	3,667	30,393
Gen'l summary of Spaniards	5,396	5,312	1,871	1,817	14,416
" " " Indians	4,124	3,914	1,410	1,216	10,664
" " " half-breeds	2,221	2,223	807	622	5,823
	11,741	11,443	4,108	3,655	30,953
Gen'l summary of regular ecclesiasticals	28				28
" " of married persons	9,732	9,732			19,464
" " " widowers & widows	530	1,160			1,630
" " " single persons & children	2,188	5	3,911	3,667	9,771
	12,478	10,897	3,911	3,667	30,953

STA. FE, *Nobr.* 20, 1790.

This translation is correct.

CHACM,
Translator C. P. L. C.

281 EXHIBIT 13.

E'tado gral. de esta villa de Santa Fee, Prova. del Nuebo Mexco., Ano de 1790.

Edades.	Solteros.		Casados.		Viudos.		Total d. sexo.
	Varones.	Hembras.	V.	H.	V.	H.	
Hasta 7	270	289					559
De 7 a 16	303	296					599
De 16 a 29	56	41	124	131	4	13	369
De 29 " 40	25	21	117	137	7	18	327
De 40 " 50	47	39	138	95	3	11	333
De 50 a arriba	18	14	59	73	5	63	232
Totales	719	700	438	438	17	105	2,419
Totales de estados	1,419		876		124		
Total gral	2,419						

Distincion de Castas.

Castas.	Hast. 7 a.		De 7 a 16.		16 a 29.		29 a 40.		40 a 50.		50 ariba.		Totales.	
	V.	H.	V.	H.	V.	H.	V.	H.	V.	H.	V.	H.		
Europeos	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Espanoles	169	170	172	174	120	142	150	129	56	53	77	73	744	741
Yndios	12	16	26	34	11	25	17	19	7	5	9	9	82	112
Mulares	53	51	63	53	41	34	33	38	12	19	27	29	229	224
Todas castas	36	52	42	39	18	40	23	19	8	7	3	3	130	150

Distincion de Clases.—Labradores, 236; Jornaleros, 123; Artesanos, 000.

Concuerda y está fielmente conforme este extracto al padron de dho. pueblo; de que doi fé.

MANL. GARCIA DE LA MORA,
Alde. Mayor. [Rubric.]

282 *General condition of this villa of Santa Fe, Province of New Mexico, year 1790.*

Age.	Single.		Married.		Widowers.		Total.
	M.	F.	M.	F.	M.	F.	
Up to 7	270	289					559
7 " 16	303	296					599
16 " 29	56	41	124	131	4	13	369
29 " 40	25	21	117	137	7	18	327
40 " 50	47	39	138	95	3	11	333
50 & upwards	18	14	59	73	5	63	232
Totals	719	700	438	438	17	105	2,419
Total No. estates	1,419		876		124		
Gral total	2,419						

Distinction of races.

Races.	7.		7 to 16.		16 to 29.		29 to 40.		40 to 50.		50 & up.		Totals.	
	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		
Europeans	0	0	0	0	0	0	0	0	0	0	0	0	0	
Spaniards	169	170	172	174	120	142	150	129	56	53	77	73	744	741
Indians	12	16	26	34	11	25	17	19	7	5	9	9	82	112
Mula to's	53	51	63	53	41	34	33	38	12	19	27	29	229	224
All races	36	52	42	39	18	40	23	19	8	7	3	3	130	156

Distinction of classes.—Laborers, 230; journeyman of day laborer, 123; artisan or manufacturer, 000.

MANL. GARCIA DE LA MORA,
Alde. Mayor. [Rubric.]

283 PLAINTIFF'S EX. 14.

EXCELENTISIMO SENOR: Os someti en la que escribi a vuestra Senoria con el correo que remiti juntamente en ella (el 5 de Setiembre pasado desde el rio de Concho) el mandamiento de los $15,000 (quince mil pesos) por no haber tenido efecto entregarme dicha cantidad que habia de servir para la conducion de las familias que sustraidas ze hallan vivir en diferentes partes y lugares del reino de la Viscaya y asi mismo para ajustar el mover estas y como repito a vuestra Senoria omiti darle noticia de su ejecucion haviendo tomado por mi cuenta dicho empeño sin hacer prenda de dicho mandamiento antes bien devolviendolo a su grandeza y darle cuenta de haverle servido haciéndole la relaccion siguiente:

No. 10. Que habiendo llegado a este pueblo del Paso el dia 17 de Setiembre y tener ya fuera del la gente de guerra y pobladores que truje de tierra fuera con sus bastimentos y ropa de su ajuar y vistuario, pase a poner en ejecucion esta vicindad saliese para lo cual mande publicar un bando del tenor del traslado que remito a vuestra Senoria, y luego en su cumplimiento se presentaron scorrí y abié a todos generalmente siendo el numero de mas de setenta familias y en ellas muchas viudas y solteros y solteras y ochocientas personas y mas, de todas edades, las que irán con ellas asi hijos como servientes; a todos esto se anade algunos naturales que el amor de su tierra y de sus parientes los llevan y con dicho gentio en doce carros que flete en el parrol como con mulas y caballos acomode los mas granado y otros se alludaron a ir en laspocas carretas que tenian, y asimismo reparti escuadras de gente de guerra, una para la conduccion de mas de novecientos reses que para poder bastimentar la dicha gente va en la manguardia a cinco leguas siempre de distancia, anticipandose a la jornada del subsecuente dia para lograr tambien con su Guella habran y rompan el
284 camino para mas bien facilitar su paso y tras sino, en las partes donde por las asperezas de los matorrales sa hallare cerrado y asi mismo las recuas para los bastimentos, las tres carretillas con dos piezes de artilleria y un pedrero grande de bronze, todo lo cual el dia de San Francisco, a las tres de la tarde, estando aprestado sali en su convoy con dos escuadras de dies soldados y en cabo cada una y por tomar paraje a proposito fue preciso quedarse ayer noche a la orilla del rio en terreno capas, para poner dicho real y las cinco leguas de su salida por lo muy barrancoso y haberlo las aguas derumbado el camino y ser todo de lo mas muchas quebradas y barrancos a sido menester le asegura a neustra Senoria para vencer el pasarlo con dicho carguio, toda la faena de emplear dicha gente en allanarlo como tambien en doblar las audanas de mulas a dichos carros y estado dando las providencias y disposiciones a todo, habiendo gastado toda la semana pasada para dar corriente a las repetidas marchas y estandolo ya aun para mas bien la brevedad alijerarse la mayor parte de su carga de los bastimentos que llevan dichos carros en ochenta mulas que di orden y despache al primer campo me remitiese al paraje donde se haya para *para* incorporarme con el y estando todo en un nervio fue de resolver el repetir la entrada por mi

solo con la gente de guerra para que entre la dicha poblacion a la dicha villa; y asi he dado a vuestra Senoria cuenta de todos y de llevar a ella a colocar su titular y protectora Nuestra Senora la Conquista, quedandome la gloria y desvanecimiento soy el que la vuelvo no solo a plantar en su villa de Santa Fe sino aun a ella de nuevo la coloco a nuevo trono y lugar que para su soberana y divina majestad tengo de revivificar y asi con tal norte divino y guia de mis impulsos gobernara de suerte mis acciones que
285 sean esmeros no solo de la propagacion de Nuestra Santa Fe sino del gran servicio y espero, dondome nuestro Senor vida, dejarle tan bien servido que aun nuestra Senoria admire la brevedad del embarazo y esperient eque para semejante empeno he dado a todo el complimiento de poner en dicho reino asentada su poblacion y presidio en su villa, distrito y contornos, puestos sus ministros para que se empleen en el ejercicio del Santo Evangelio y se atendera por vuestra Senoria a que no se me falte se me de satisfaccion de lo que hubiere suplido cuando remita la cuenta, pues a mi credito hice el empeno valiendome de mis amigos y salgo a la fecha de esta a incorporarme con dicho mi real y campo despidiendome de vuestra Senoria que como a mi principe y Senor me prometo de su grandeza las asistencias en tierra tan remota para el desempeno mio en el peso que sobre mi estriba y pende de haber de estar a mi cargo dicho gentio su congrua sustentacion a hembras y lo demas para el fomento de Indios con que asistirlos para el reedificio de sus viviendas cuyo trabajo personal tambien habre de recompensar a dichos Indios.

Y llegado que sea a dicha villa y de lo que en su principio olurare dare juntamente cuenta a vuestra Senoria para que se halle de todo libre del cuidado satisfecho y servido que es lo que atendera siempre mi rendimiento, deseando guarde la ecelentisima persona de vuestra Senoria y logre besarle sus plantas que sera doblada mi suerte despues de tan repetidas campanas regurosos temperamentos sin la fuerza de los muchos enemigos con quien tengo de combatir paso del Rio del Norte y Octubre trece de mil seiscientos y noventa y tres anos.

DON DIEGO DE BARGOS ZAPATA PONZE DE LEON.

Exmo. SS. VIREY CONDE DE GALVE.

286 MOST EXCELLENT SIR: I advised in my letter written to your lordship and forwarded by mail (on the 5th of last September from Concho River), including the order of fifteen thousand dollars ($15,000), which I returned because the said amount had not been turned over to me, and which was destined to the expense of transporting the families who left their homes in the kingdom of Vizkaya, and I failed to notify your lordship of the fact of the execution of the enterprise, which was effected at my own expense, without making use of said order which I returned to your greatness, at the same time stating that I have obeyed your orders and giving the following report:

No. 1. I arrived at this settlement of El Paso on the 17th of September, and the soldiers and settlers I brought from afar were ready outside with their provisions and equipments, and therefore I published an order, of which I remit a copy to your lordship, and forthwith everybody assembled before me and I proceeded to supply each of what he needed, and found that there were seventy families containing many widows and unmarried men and women, and more than eight hundred persons, of all ages, comprising their children and servants, who will accompany them;

besides these there are a few natives whose love of country and their relatives impel them to go, and I accommodated this crowd in twelve wagons I freighted at Parral and in mules and horses, and others found room in a few carts which they had, and likewise I posted troops of soldiers for the conveyance of more than nine hundred head of cattle provided for the provisions of said concourse of people. The animals march on the vanguard always five leagues in advance, going on a day before in order
287 that the road may be opened by their transit and facilitate the passage in those places where it is most difficult, and these are followed by the beasts of burden conveying the provisions by two carriages with two pieces of artillery and a large bronze swivel gun. All this being ready on St. Francis Day, I started at three o'clock in the afternoon with two detachments, each of ten soldiers and a corporal, and in order to select a proper place for stopping we had to pass the night on the river banks in a place suitable for crossing said river and watch over the first five leagues, where the road is in a fearful condition, having been washed away by rains, so that it has been necessary to overcome many obstacles to pass over those places and I have been forced to employ a large number of men in its reparation, duplicating the teams of mules in many places in order to haul over the wagons and giving directions and orders about everything. I had to employ the whole of last week to gain ground in our repeated marches, and thinking it was very convenient to lighten the loads on said wagons, I placed most of the provisions on eighty mules which I ordered away and sent to the first encampment, where I would shortly follow; and when ever*y*hing was moving I resolved to repeat the entry by myself with the war parties in order to prepare the way for the entrance of the said settlers into said town, and so I have related ever*y*hing to your lordship, it also being my purpose to carry and place there its reveren'ed and august patroness, Our Lady of the Conquest, earning for myself the glory and pride of being the one who not only has replaced her in her town of Santa Fe, but also I again place her in a new throne and place which for her sovereign and divine majesty I have to reconstruct, and having such divine monitor and guide to my feelings it will govern
288 in such way my actions that they will be more effectual in the propagation of our holy faith and of infinite value in other ways to our sovereign, and I hope with the help of our Lord to serve him so well that even your lordship will admire the briefness of the trouble and the activity I have displayed in this enterprise of placing in said kingdom its population and government well established in said town, district, and surrounding country; its ministers replaced to occupy themselves in the exercises of the holy gospel and that your lordship will see to it that faith be kept with me, and that repayment be made to me for what I have supplied, at the time I present my account, because I carried out the enterprise on my credit, availing myself of my friends; and at the present date I start from this town to reunite myself with my camp, bidding farewell to your lordship, from whom, as from my prince and liege lord, I promise myself from his greatness every kind of help in a land so remote, so that I may perform the onerous duties weighing upon me in having under my charge such a multitude of people, the necessary maintenance of the females and the other things essential for the employment of Indians to assist them in the reconstruction of their homes. * * * * *

And on my arrival to said town I will keep your lordship informed of my actions there, so that you may be free from care and well served and satisfied, which my respect for you will always procure, hoping for the welfare of your lordship and wishing to kiss your feet, which will be great good fortune for me after my repeated campaigns and great hardships, not counting the many enemies I have to combat. Paso del Rio del Norte, October thirteen, year seventeen hundred and ninety-three.

DON DIEGO DE VARGAS ZAPATA PONCE DE LEON.

To His Excellency the VICEROY COUNT OF GALVEZ.

289 [This translation I substitute for the foregoing translation of De Vargas' letter.—Chacon, Official Translator.]

Letter of De Vargas, 1693, Exhibit No. 14.

MOST EXCELLENT SIR: With the letter that I wrote to you by the mail sent by me to your excellency (on the 5th day of September last, from the Rio de Concho) I omitted to send the order for the fifteen thousand dollars, for the reason that that amount was not delivered to me, which was to be expended in the transportation of the families who are living in various parts and places of the kingdom of New Biscay, and likewise to convey said families, and, as I repeat to your excellency, I omitted to notify you of its execution, having performed said undertaking at my expense, without having made use of the order for said amount; on the contrary, returning it to your greatness, and to give you an account of having done the service, making to you the following report:

I. That, having arrived at this town of El Paso on the 17th day of September, and having outside of it already the soldiers and settlers, which I brought from Old Mexico, with their provisions, personal accoutrements, and clothings, I passed to give execution that these people should put themselves upon the march, to which end I had a proclamation made in the manner as stated in the copy that I remit to your excellency. And then, in compliance therewith, they presented themselves. I supplied and equipped all of them in general, the number being more than seventy families, and among them many widows and unmarried men and women, and over eight hundred persons of all ages, with whom will go also both children and servants; to all these are added some natives, who, in love for their relations and country, were impelled to go back. And, with said people on twelve wagons that I loaded at Paral, as well as on horses and mules, I accommodated the most delicate, and others helped themselves to travel on the few carts that they had, and likewise I distributed a detachment of soldiers, one for the transportation of over 900 heads of cattle, which, in order to be able to supply the people, travels ahead always at a distance of five leagues, making always one day's journey in advance. In order also that by their trail they might open and break the road and make it easier and to seek around at the places at which, on account of the roughness from the sh'ubbery, the said road might be closed, and likewise the herds for the use of provisions, the three carriages with two pieces of cannon and a large bronze swivel gun, all of which, on the day of Saint Francis, at three o'clock in the afternoon, being ready, I started with the convoy with two detachments of ten soldiers each and each with a corporal, and in order to select a stopping place it was necessary to remain for the night by the river upon a site

proper for the making of said encampment. And the five leagues
290 of its exit and its steep condition, and because the waters had destroyed the road, and the greater portion of it being gulleys and bluffs, it has been necessery, I assure your excellency, in order to effect the passage with said loads, to undertake the trouble of levelling the same as well as of doubling the teams of mules for said wagons, and giving the orders and directions for everything, having spent the whole past week in preparations for the frequent marches, and it being best in order to expedite the matter to lighten the greater portion of the loads of provisions carried in said wagons by changing them to packs on eighty mules, which I ordered and sent to the first encampment to bring the information to me of the place it would stop at so that I might join it, and everything being prepared, I resolved to repeat my entry into the country by myself only with the soldiers in order that said settlers may go into said city, and thus I have given account to your excellency of everything and to bring into the same (city) and to place in it its patroness and protectress, our Lady of the Conquest, the glory and pride being mine that I shall not only be the one who shall place it in its city of Santa Fe, but also I shall place it upon a new throne and place which I shall have to rebuild for her sovereign and devine majesty, and with such devine guide which leads me to my enterprise my efforts shall be so directed that not only shall they be bent towards the propagation of our holy faith but also the royal service, and our Lord granting me life, I hope to accomplish it so well that even your excellency will admire the short duration of the troubles and the means that I have taken for that purpose in everything to place in said kingdom, having established the settlement and its garrison in its city district and surroundings, establishing its ministers to be employed in the exercise of the holy gospel. And your excellency will see that I shall be paid back for what I shall have expended when I shall send in this account, because at my own expense I did the undertaking, availing myself of my friends, and at this date I go out to join my said encampment.

Bidding farewell to your excellency, which, as my prince and lord, I anticipate from your greatness that you will give me aid in this far land so that I may perform the duties that weigh upon me, and depend from the fact that the people are under my charge, the difficult support of the females and others, for the employment of Indians for their assistance in the reconstruction of the homes, which personal labor I shall also have to pay for to said Indians.

II. And once having arrived at said city, and what I shall do at its commencement I shall give joint account to your excellency, in order that you may not be uneasy and unsatisfied and that you may be satisfied and served, which shall always be my object. Desiring that your most excellent person be preserved, and desiring to kiss your feet, which will make my fate twice happy after so many campaigns and cruel storms, without counting the strength of the numerous enemies with who I have to fight.

Paso del Rio del Norte, Oct. 13th, 1693.

291 To His Excellency: Your most humble and obedient servant kisses your hands and feet.

DIEGO DE VARGAS ZAPATA LUJAN PONCE DE LEON.

To His Excellency the VICEROY, COUNT OF GALVES.

292 PLAINTIFF'S EXHIBIT 15.

Juan Domingo Archuleta, Indian.

Book of deaths.

On the aforesaid day and month of May, seventeen hundred and eighty years, Juan Domingo Archuleta, half-breed Indian, having received the holy sacraments, being a resident of Santa Fe, who was married to Candelaria, Indian, he died, and his corpse is interred in the holy cemetery, and that it may so appear, I sign on said day, month, and year to which I certify.

FRY JUAN MUÑOS, [Rubric.]
Minister.

This book was finished in the year 1780.

Augustin to Juana.

Book of marriages.

On the third day of the month of March, seventeen hundred and twenty-eight years, having preceded the diligencies ordered by the holy council of Trento, and there being no impediment, I married, coram ecclesia, Juana Tafoya to Augustin Lovato, witness Felipe Tafoya and Barbara Tafoya, and that it may so I signed ut supra.

FRY JOAN DEL PINO. [Rubric.]

Jose Francisco to Ma. Ynes.

Ditto.

On the twenty-ninth day of September, year seventeen hundred and eighty-three, having practiced the diligencies that the holy council command, and reading the three proclamations in three different feast days intermissarum solemnia, and there being no impediment, I married and give the nuptial blessing, in facie ecclesia, Jose Francisco Flores to Maria Ynes Gamboa, sponsors Josef Rodriguez and Maria Loreta Flores, witness Lucas Mova and Juan Antto.
293 Dominguez, and that it may so appear I sign or said day, month, and year, ut supra.

FRY FRANCO. DE HOSSIO. [Rubric.

This translation is correct.

CHACON, *Translator C. P. L. C.*

294 EXHIBIT 18.

Don Carlos, por la gracia de Dios, Rey de Castilla, de Aragon, de las Dos Sicilias, de Jerusalem, de Portugal, de Navarra, de Granada, de Toledo, de Valencia, de Galisea, de Mayorca, de Xaen, de los Algardes, de Algesira, de Gibraltrar, de las Islas de Canaria, de las Yndies Orientales y Occidentales, Yslas y tierra firma del mar oceano, Archiduque de Austria, Duque de Borgona, de Bramante y Milan, Conde de Aspur, de Flandes, Tirol, de Barcelona, Senor de Viscaya y de Molina, etc.; por cuanta en junta general de veinte y ocho de Julio de este ano en que hizo relacion en otros dos antecedentes de los abastos que remitio Don Antonio de Otormino, a quien tenia nombrado con acuerdo de mi Virrey por Gobernador y Capn. Genl. de las provincias de la Nueba Mexico, y las cartas que he recibido desde el Paraje Estero largo de vuelta de la entrada que hizo en nas dhas. provincias

de orden de mi Virrey para la recuperacion de lo que de ellas se habia perdido y los demas autos y cartas remitidas desde El Paso del Rio del Norte y los que sobre esta misma materia escribio Fry Francisco de Ayeta, procurador de estos Parajes, que tubo visto en dhas. juntas generales y el que el dho. governador pedia licensia con suma instancia a mi Virrey por allarse llenos de achaques que le afflijian a imposibilitaba para las asistencias precisas que de su persona eran necesarias para proceder a la recuperacion de lo perdido y pacificacion de las naciones que habian quedado y que para estas operaciones se nesesitaban de personas de grado y estimacion y de entera confianza y a quien se tenga todo respecto y obediencia, y porque hasta hora nase perdido la esperanza de que se vuelba a recuperar dha. provincia con el fomento de las despociciones que yo diere noticiado del estado en que hoy se allo ya que en la persona de vos el Capitan Don Domingo Jironsa Petriz de Cruzat. Concurren los meritos, caridades y
295 servicios que se requieren con acuerdo de Don Tomas Antonio Lorenzo Manuel Manrique de la Serda de Enriques, Conde de Paderes, Marquez de La Laguna, Comendador de la Moraleja en la Orden y Caballeria de Alcantara, pariente de mi consejo, camara y junta de Guerra de Indias, mi Virrey lgar. teneiente Govor. y Captn. Genl. de las Provincias de la Nueba Espana y Presidente de mi audencia y chancilleria de ellas, he tenido por bien de nombraros, como el presente les nombro, por mi Governador y Capitan General de las Provincias de la Nuebo Mexico segun y como han sido vuestros antecesores, por tiempo de tres anos mas o menos, la voluntad del dicho mi Virrey en lugar del dho. Don Antonio de Otormin, y como tal gobernador rijais y governeis todos los parajes, tierras y poblaciones que al presente se allaren y estubiesen en ser de dichas provincias y las demas que en adelante fuereis recuperando, procurando el aumento asi en lo que se fuere, reduciendo como en lo que al presente estuviere, asiendo en estos parajes poblas'ones, aumento y conservacion y que los Yndios naturales de ellas que estan asentados de paz sean amparados desponiendolo, ordenando las demas cosas de aquellas provincias y abiendo poblas'on de todos los Espanoles que se allaren en dho. paraje, dandole a este titulo de Va, conservandoles regimentos en las personas benemeritas en la conformidad que ejercian dhos. oficios en la villa de Santa Fe, hasiendo congregaciones y poblasiones de los Yndos que salieren en una y otra ocasion que fueren necesarios en los parajes mas al proposito y sin perjuicio de las otras congregaciones que antes abia en aquel paraje, de la sumas y mansos, senalando las tierras que ubieren menester y terminos y linderos a cada pueblo y tambien a la villa que formadieres de
296 Espanoles, la cual a de ser separada para que por este medio esten en libertad los Indios y se eviten discordias sobre el uso de las tierras, aguas y montes, dejando en su libertad a los Indio y sin sujesion de servidumbre involuntaria, amaparando y fomentando a las cuatro misiones que se allan en el referido paraje del Paso del Rio del Norte, procurando su conservacion y fomentando y conservando asi las cuatro referidas como las ocho que en conformidad de junta general, a proposision del Padre Fry, Francisco de Ayeta, tengo mandado se nombren para que administren los santos sacramentos a las personas asi de Espanoles como Indios que se allen en dichos parajes y que han salido de retirada de dha. provincia a los cuales doce misioneros, acudireis con el estipendio y limosna que sea acostumbrada, no consintiendo pena de destierro de mis

vecinos y que seran castigados como inobedientes a los superiores mandatos a los Espanoles mestizos y mulatos que hubieren salido de retirada de dha. provincia, que sa salgan de dho. paraje, y sitio de Paso del Rio del Norte si no fuese con justa causa o con licensia temporal, senalandoles termino compitente para la licensia de su viaje que representaren serles necesario, y nunca les habeis de conceder licensia para sacar sus mujeres y familias y los compelereis a que habiten y puebben en el sitio de la villa que se los senalare, hasiendolos merced de todas las tierras que hubieren menester para sus sementeras y del agua del rio para regarlas, para que con este medio puedan sembrar, haser comenteras y lograr cosechas para su sustento asi los Espanoles y demas personas que salieron de retirada de dhas. provincias y se allan en dho. paraje del Rio del Norte, con las demas naciones de Indios naturales de paz que procureis conservar en ellos y no permetir los desamparen ni agan ausencia sino fuere con vuestra
297 licensia en la manera que va expresada; y para que todo lo referido se llebe a debido efecto, mando a todos los vesinos que al presente se allaren en dha. villa y a los que en adelante hubiere en todaos estos terminos parajes y juresdiciones, que dhas. provincias y demas vecinos y naturales os allan y tengan por tal su Gobernador y Capitan-General de toda aquella provincia, segun y como a los demaz que lo han sido y os acaten, respecten, y obedescan, guardando y cumpliendo vuestras ordenes y mandatos a los plasos, y so las penas que les pusiereis las cuales ejecutareis en los rebeldes como obedientes, que para todo ello y lo anexo y dependiente hos doi poder y facultad, guardando en toda la instruccion que le sera entregada, firmada del dho. mi Virrey y refrenada de mi secretario.
298 Dated 1692.

Don Carlos, by the gr'e of God King of Castile, of Aragon, of the Tow Sicilies, of Jerusalem, of Portugal, of Navarre, of Granada, of Toledo, of Valencia, of Galicia, of Majorca, of Xaen, of the Algarbes, of Algicira, of Gibralta', of the Canary Islands, of the East and West Indies, the isles and mainland of the sea and ocean, Archduke of Austria, Duke of Burgundy, of Brabant and Milan, Count of Aspur, of Flanders, Tyrol, and Barcelona, Sieur of Biscay and of Molina, etc., Considering, that in a general meeting held on the 28th of July of this year, in which men'ion was made in other two preceding of the supplies remitted by Don Antonio de Otermino, whom I had appointed, in concurrence with my viceroy, as governor and captain-general of the Provinces of New Mexico, and the letters I have received from the site of El Paraje Largo on his return from the entrance he made into the said provinces by order of my viceroy, for the recovery of what had been lost of them, and the other letters remitted from El Paso del Rio del Norte, and those which on this same subject, were written by Fr. Francisco de Ayeta, procuarator of those places, all of which were considered in the said general meetings, and the fact that the said governor asked very urgently for leave from my viceroy for the reason that he was sickly and disabled for performing the duties to which he has to attend in person, in order to proceed to the recovery of what has been lost, and the pacification of the natives remaining there, and that for these operations it was necessary to have a person of high degree and esteem and worthy of confidence, who will be able to command full respect and obedience, and also because at present not all hopes have been lost of achieving the recoevery of said province by carrying into effect the dispositions that I

may give on receiving notice of the condition in which it is to-day; seeing that in the person of you, the captain, Don Domingo Jovenza Patriz
299 de Crusat are reunited the merits, qualities, and services required by agreement with Don Tomas Antonio Lorenzo Manuel Manrique de la Serda de Enriquez, Count of Paderres, Marquis of the Laguna, knight commander of the Moraleja of the Order of Knighthood of Alcantara, member of my council, Chamber and Board of War of the Indies, my viceroy and lieutenant governor and captain-general of the provinces of New Spain, and president of my Royal Audience and Chancellorship, I have thought it proper to appoint you as governor and captain-general of the provinces of New Mexico, in the same manner as your predecessors have been, for the term of three years, more or less, at the will of the said my viceroy, in the stead of the said Don Antonio de Otermin, so that as such governor you may rule and govern all the places, lands, and settlements at present existing in said provinces, and those which hereafter you may recover, procuring the increase as much in what you may conquer as in what at present may be helping the progress of these places and settlements and their preservation; and that the native Indians therein settled and at peace be protected, disposing and ordering all other matters in those provinces, and on the settlement of all the Spaniards who may be in said place, the same may receive a title from you, keeping the regiments in noteworthy persons in the same conformity as they filled said offices in the town of Santa Fe, getting up gatherings and settlements of the Indians who may go out on one or more occasions that may be necessary in the most adequate places and without detriment to the other gatherings of the Sumas and Mansus which were before in that place, assigning to them the lands which they may need and grounds and boundaries to each pueblo, and the same to and town which you may colonize with Spaniards, which must be separated and set apart so that by this means the Indians may be at liberty, and to prevent quarrels respecting the use of lands,
300 waters and forests, leaving the Indians free and not subject to involuntary servitude, protecting and encouraging the four missions established in said place of El Paso del Rio del Norte, fostering their preservation, and in the same way encouraging and maintaining the other eight missions which, in conformity with the opinion of the general board on the proposal of Fr. Francisco de Ayeta, I have ordered you to appoint in order that they may administer the blessed sacrament to every person, be they Spaniards or Indians, who may reside in those places and who have gone forth and retired from said province; to which twelve missionaries you will attend with the stipend and alms which it has been the custom to give, not permitting, on pain of exile from my domains and punishment for disobedience to superior ordinances, that the Spaniards, mestizo', and mulattos who have gone away and retired from said province to absent themselves from said place and site of El Paso del Rio del Norte unless they show proper justification, or if they lack a temporary license fixing a sufficient term for the duration of their journey whenever they represent its necessity, and must never grant them permits to take away their wives and families; and you must compel them to live and establish themselves on the site of the town where they have been assigned, making concession of all the lands they may need for cultivation, and of water from the river for irrigating the same, in order that in this manner they may cultivate

the fields and raise harvests for their own support. The Spaniards and the other' who may go away and retire from said provinces and stay in said place on the Rio del Norte in company with the other tribes of native Indians at peace, I admonish you to try and keep them there and not allow them to leave or absent themselves without your permission in the manner expressed above; and in order that all that has been said may be duly carried into effect, I hereby command all the settlers who at present live
301 in said town, and those that hereafter may go to all these sites and places and jurisdictions of said provinces, and that they rest of the inhabitants and natives, that they must recognize and consider you as their governor and captain-general in every portion of said province, and to respect, obey, and look up to you in the same way as they have done with those who have preceded you, attending and complying with your orders and commands, at the time and under the penalties which you may impose and which you must carry into effect against the rebellious even if they submit; and for all this and for all other things in relation to the same, I give you power and authority, observing in every way the instructions which shall be delivered, signed by my said viceroy, and attested by my secretary.

302 EXHIBIT M.

Juan Lujan.

Book of deaths. On the twentieth day of the month of January, seventeen hundred and twenty-six, died at the hands of the Apaches, Juan Lujan, aged twenty years, more or less. His body is interred in this parrochial church; and that it may so appear, I sign on said day, month, and year. Ut supra.

FRY JOSEPH ANTTO. GUERRERO. [Rubric.]

Sebastian Gonzales.

Ditto. On the eleventh day of the month of June, seventeen hundred and twenty-six, died Sebastian Gonzales, married to Luisa Ortiz. His age was sixty years, he received the holy sacraments, and his body is interred in the Chapel of Our Lady; and that it may so appear, I sign on said day, month, and year. Ut supra.

FRY JOSEPH ANTTO. GUERRERO. [Rubric.]

Matheo Marquez, native of Santa Fe.

Ditto. On said day (26) and month of May, seventeen hundred and eighty years, having received the holy sacraments, Mateo Marquez, married to Maria de la Luz Gallego, native and resident of Santa Fe, who died and having been dead, I gave his corpse ecclesiastical interment in this Holy Parochial Churc' of Our Father St. Francisco of the village of Santa Fe, having paid for his grave nine dollars; and that it may so appear, I sign on said day, month, and year, to which I certify.

FRY JUAN MUNOS, [Rubric.]
Minister.

This translation is correct.

CHACON, *Translator, C. P. L. C.*

303 PLAINTIFF'S EXHIBIT 17.

1st page of the book, church record.

Autto de visita: En este Convito. de Santa Fe, en catorce dias del mes de Enero de mil seiscientos y noventa y nueve anos, visitando este libro de patentes Ntro. M. R. Pe. Fry Diego Padilla, Pr. Appco. Mro. Misso. de este Reyno, Visitador Juez Exto. ordinario de esta Sa. Custa. por Auta. Appca., visito este libro su P. R. y mandaba y mando se trasladasen las ojas que estan rotas al principio del, asi lo proveio, mando y firmo por ante mi el infraescripto seco. nov., fecha ut supra.

Last page of the same book, church record.

Fry Juu. de la Cruz, de los frailes menores de la regular observancia de N. S. P. S. Franco., Predto. Into. App. Custo. y juez eclessico. ordino. por autoridad Appca. de este reyno y provincias de la Nueva Mexico, &a. A todos los religiosos de esta Nra. Sta. Custa. salud y paz en nuestro Senor Jesucristo. Porque es de nuestro incumbencia y presisa obligacion el cuidar el que los R. Rs. P. Ps. ministros asistan a sus misiones sin hacer la falta considerable que tenemos no*b*icia cierta punto que ya tenemos mandado en nuestra primera patente en virtud de cuya negligencia y omision en esta nuestra patente, mando por santa obediencia y en virtud del Espiritu Santo que ninguno salga de sus misiones sin grave urgencia y necesidad. Otro si haviendo mandado mis antecesores como expreso es sus patentes que ningun religioso entre en la villa de Santa Fe, y reconociendo lo justificado del mandado, mando que ningun religioso entre en dicha villa de Santa Fe sin licensia especial nuestra in scriptis sul pena excommunication*n* majoris nobis reservata y la licensia que llebara nuestra presentera a nuestro
304 ministro de dicha villa a quien debajo de las infraescriptas penas le mandamos que si alguno fuese sin dicha licencia no le admita, y luego incontinenti nos de aviso con apercibimiento que de lo contrario a este nuestro mandato que por motivos muy justificados que para mi reserva lo castigare y privare de la mision que tuviere y pondre por subdito en la mision mas retirada. Otro si porque hemos conmido andar algunos libros extravenados de sus propias misiones mando a todos y a cada uno de por si que los libros que reconociesen no ser de sus propias librerias maximo si hallasen algunos de la villa de Santa Fe luego al punto los conduscan y entreguen a nuestro ministro de dicha villa. Dada en este nuestro convento de la villa de Santa Fe, en veinte y dos dias del mes de Junio de mil setecientos y veinte y dos anos, firmada de nuestra mano, sellada con el sello mayor de nuestro oficio y refrendada de nuestro secretario y para que venga en conocimiento de todos leida y trasladada pasara de convento en convento y del ultimo se nos remitira para que nos conste de su cumplimiento.

FRY JUAN DE LA CRUZ,
Custodio por mandado de su Pe. Revo.
FRY DOMINGO DE ARAOZ,
Secretario.

305 From 1st page of the book of church records.

Visiting note.—At this convent of Santa Fe, on the fourteenth day of January, of the year sixteen hundred and ninety-nine, this book of ordinances was examined by our very reverened father, Fr. Diego Padilla, apostolic preacher, missionary of the missions of this kingdom, visitor, ecclesiastical judge in ordinary of this sacred retreat, and his reverence, by apostolic authority, did examine this book ordering and decreeing that the torn leaves at the beginning of the same should be transposed. It was so provided, ordered, and signed before the undersigned secretary and notary, date ut supra.

Last page of the same book of church records.

Fr. Juan de la Cruz, of the junior friars of regular observance of our Lord St. Francis, acting president, apostolical custodian, and ecclesiastical judge in ordinary, by apostolic authority, of this kingdom and provinces of New Mexico, etc.: All the secular clergy of this our holy tabernacle, health and peace in our Lord Jesus Christ. It being of our incumbency and in the line of our strict duty to take care that the reverened fathers and ministers should attend to their missions without such considerable omissions which as we have certain 'otice occur, a point on which we have given orders in our first ordinance, on account of which neglect and omission, I hereby command in this our ordinance, that through holy obedience, inspired by the Holy Ghost, no one shall go out of his missions without grave urgency and necessity; moreover, my predecessors having expressly enjoined that religious man should enter the town of Santa Fe, and myself recognizing the justice of the command, I do order that no relig'ous
306 man shall enter the said town of Santa Fe without our special license in scriptis sub pena excommunicationis majoris nobis reservata, and the person who shall have our license shall present the same to our minister in said town, whom, under the above-mentioned penalties, we command that if anyone should go without said license he be not admitted, and to instantly give us notice, with the understanding that on contravention of this our command, given on very justifiable motives which I keep to myself, I shall punish him and deprive him of the mission he holds, and shall place him as subaltern in the most distant mission. Moreover, as we know of some books that are extravenated from the missions where they belong to, I order everybody, and each one in particular, that the books they know not to belong to their own libraries, and principally if they find any of the town of Santa Fe, should be immediately returned and given back to our minister in said town. Given in this our convent of the town of Santa Fe, on the twenty-second day of the month of June, of the year seventeen hundred and twenty-two. Signed by our hand and sealed with the great seal of our office, and attested by our secretary, and in order that it may come to the knowledge of all, it shall pass, read, and copied from one convent to another, and from the last it shall be remitted to us so that we may be assured of its compliance.

Fr. Juan de la Cruz,
Permanent Custodian of his Province.
Fr. Domingo de Avaoz,
Secretaris.

307 EXHIBIT FILED WITH AMENDED PETITION, APRIL 18, 1894.

Recopilacion de leyes de los reynos de las Indias.

[Tomo 2do. Libro IV. Titulo V. Ley VI.]

Que la capitulacion para villa de alcaldes ordinarios, y regidores, se haga conforme á esta ley. (D. Felipe Segundo, en Valladolid, Ord. 88, y 89.)

Si la disposicion de la tierra diere lugar para poblar alguna villa de Españoles, con concejo de alcaldes ordinarios y regidores, y huviere persona que tome asiento para poblarla, se haga la capitulacion con estas calidades: Que dentro del término que le fuere señalado, por lo menos tenga treinta vecinos, y cada uno de ellos una casa, diez bacas de vientre, quatro bueyes, ó dos bueyes y dos novillos, una yegua de vientre, una puerca de vientre de Castilla, y seis gallinas y un gallo; asimismo nombrara un clérigo, que administre los Santos Sacramentos, que la primera vez sera á su eleccion y las demas conforme á nuestro real patronazgo; y proveerá la iglesia de ornamentos y cosas necesarias al culto divino, y dará fianzas que lo cumplirà dentro del dicho tiempo; y si no lo cumpliere, pierda lo que huviere edificado, labrado y grangeado, que aplicamos á nuestro real patrimonio, y mas incurra en pena de mil pesos de oro para nuestra Cámara; y si cumpliera su obligacion, se le den quatro leguas de termino y territorio en quadro, ó prolongado, segun la calidad de la tierra, de forma que si se deslindare, sean las quatro leguas en quadro, con calidad de que por lo menos disten los limites del dicho territorio cinco leguas de qualquiera ciudad, villa, ó lugar de Españoles, que antes estuviere poblado, y no haga perjuicio á ningun pueblo de Indios, ni de persona particular.

308 [Translation.]

Recopilation of the laws of the kingdoms of the Indies.

[Vol. 2. Lib. IV. Tit. V. Law VI.]

Marginal: Given by King Philip the Second, at Valladolid. Ordinances 88 and 89.

If the condition of the land should give opportunity for the settlement of some town by Spaniards, with a corporation of ordinary magistrates and councilmen, and there should be some person who should select a site in order to populate the same, the charter shall be made with these conditions: That within such term as shall be therein determined, he shall have at least thirty residents, and each of these shall have a house, ten breeding cows, four bullocks, or two bullocks and two yearlings, one brood mare, one Castilian breeding sow, and six hens and one cock; as likewise he shall appoint a priest, who shall administer the holy sacraments, who for the first time shall be chosen by him and afterwards according to our royal patronage; and he shall provide the church with ornaments and necessaries for divine service, and he shall give securities for fulfilment within the aforesaid time; and if he should fail he shall lose what he may have built, cultivated, and obtained, which we will apply to our royal patrimony, and further he shall incur a fine of one thousand dollars in gold for our supreme council; and if he should fulfil his obligations, there shall be given to

him four leagues of limit and boundary in a square, or prolonged, according to the conditions of the land, in such form as that if surveyed it shall be four square leagues; under the condition that the limits of said territory shall be distant at least five leagues from any city, town, or village of Spaniards, which should have been previously populated, and shall not be prejudicial to any pueblo of Indians, or to any private person.

309 PLAINTIFF'S EXHIBIT FILED WITH AMENDED PETITION, APRIL 18, 1894.

1692.

Sor. Gov. y Capp. Gen: El Cavildo, justicia y reximto. de la villa de Santa Fe, de las Provincias de la *Neuva* Mexico que hoy nos halla mos en este parage del Rio del Norte, en nombre y voz de toda la vecindad que se halla en dicho paraje y distrito de la jurisdiccion, parecemos ante Vssa., en la forma de supplica y como mas convenga á el derecho de esta republica y premiso lo necesario decimos: que va por doce años que se cumpliran por el mes de Octubre proximo venidero que como vasallos leales del Rey Ntro. Sor. hemos estado y estamos actualmente, haciendo vecindad en este pais sin tener recurso á poder sustentarnos siquiera medianamente de solo mais por causa de ser el puesto incomodo para ello, pues la tierra es tan esteril que si no es á puro riego no se coje grano de ella. Y esto es no haviendo el incoveniente mayor de la acequia madre que al mejor tiempo para su curso [illegible] y aunque se hagan muchas diligencias como las hacemos todos, antes sirve de mayor inconveniente porque se estorvan los unos á los otros. Conque todos venimos á quedar en la misma necesidad y caso, negado que la corriente de la acequia fuere permanente, la falta de bueyes no nos diera lugar á alargarnos en las siembras porque lo trabajamos personalmente y aunque no fuera muy dificil el buscarlos el puesto, no da lugar para poderse conservar ni criar ganados mayores ni menores ni menos caballadas en que poder traginar, pues le consta á Vssa. de la mucha gente que pasó hay pocos dias, de las pocas bestias que ante Vssa. pasaron, las mas de los vecinos y que tocante al vestuario si no fuera por los cambalaches que hacen con los sres. soldados, algunos anduvieran en carnes vivas y otros que salen á los rodeos de minas que á fuerza de su trabajo buscan para camisas y enaguas á sus mugeres, y como estan tan distantes de repuesto, cuando vuelven á el, como hallen sus familias pereciendo de hambre lo poco que traen lo venden á los Indios de los pueblos por bastimento para poderse mantener; conque siempre Sor. Govor. quedamos en la misma necesidad, y mas no teniendo sitios ni tierras en que como propia cosa pudieramos obrar, que aunque al General Don Domingo Xironza Petris de Cruzate fue mandado por el Supremo Gobierno diera posesion de tierras, aguas y abrevaderos, no sabe este cabildo justicio y reximto. que motivos tuvo para no ejecutarlo; y siempre con estos graves inconvenientes esta republica á su mando [illegible] este cabdo.
310 just. y rexim. el que lo representemos a Vsa. como lo hacemos para que Vssa., siendo servido, pues todo le consta ha vista de ojos y como que tanto mira por los vasallos de su Magestad, atienda a que ya es imposible el que esta republica, por los inconvenientes espresados, pueda permanecer en adelante, antes si, perecer a manos de la desnudez y hambre; y es harto lastimoso, Sor. Gov. y Capp. Gen., que teniendo este Reyno de la Nueva Mexico por jurisdiccion declarada hasta el Rio de Nombre de Dios,

donde se hallan puestos de muchas conveniencias, hayan de asistir en lo peor y a merced de los Indios. Vssa. como viva imagen del Rey nuestro Sor. se sirva de mirar por sus vasallos y que no perezcan, pues milagrosamente nos sustentamos y cumbrimos las carnes y nos conceda su licencia a toda esta republica para a poblar al puesto que mas comodo fuese del Rio de Nombre de Dios, o Sacramento, o valle de San Martin, que donde quiera de las tres partes se podra poblar la villa, desde donde serviremos a su Magestad como sus leales vasallos y estaremos mejor cercania para nuestras conveniencias y por todo lo cual y lo mas que alegar podemos, en nombre y vos de esta republica, que aqui damos por espresado a Vssa., pide y suplica este cabildo, just. y rexto., asi lo provea y mande, que concediendolo asi, Vssa. saldra toda esta republica por el mes de Octubre, que es el tiempo de mas conveniencia, que en hacerlo. Vssa. asi, recivira este cavildo justicia y reximiento en nombre de la republica bien y merced; y juramos a Dios Ntro Sor. y a la senal de la Cruz X., en nras. animas y en las de ntras. pardes, que este nuestro pedimento no es de malicia sino por alcanzar justicia, la cual pedimos y en lo necesario.

FRANCISCO DE ANAYA ALMAZAN.
ANTONIO LUCERO DE GODOY.
ANTONIO MONTOYA.
DIEGO MONTOYA.
TIBURCIO DE ORTEGA,

Secret. de Cav.

Auto.

En el pueblo del Paso del Rio del Norte, en veinte y seis dias del mes de Junio de mil seiscientos y noventa y dos años, ante mi, Don Diego de Vargas Zapata Lujan Ponce de Leon, Gov. y Capp. Gen. de este Reyno y Prov. de la Nueva Mexico y Castellano de sus fuerzas y presidios por su Magestad el muy ilustre cavildo, justicia y rexim. asi mismo por su Magestad, presento la peticion de la foxa antecedente, la que mande a mi secretario de gobierno y guerra me la leyese en su presencia. Y en su
310½ cumplimiento habiendolo hecho, oido y atendido con la atencion que devo, mando que noobstante ser constante y justificado dicha su relacion que es conmiseracion grave la que representan que esta de mi parte, no soy capaz de remediarsela como menos de determinar la licencia que representa dicho muy ilustre cavildo, como en nombre de todo la Republica y vecindad, para salirse a poblar a los puntos que sita, para lo que solo el Excelentisimo Señor Virey de toda la Nueva España puede, con vista del titulo de merced o instrumento que para ello tubo el Gen. Don Domingo Xironsa mi antecesor, determinar su Excellencia y mandarme su grandeza lo que fuere y hallare mas conveniente en el servicio de ambas magestades, y asi no curra, a representar dicho muy ilustre cavildo a su Excelencia con dicha peticion y este auto, y lo demas que hallare a su derecho por si y en nombre de la dicha su vecindad, que yo de mi parte repito no puedo satisfacerle en la concesion de la suplica, solo si, como leales vasallos que son de su Magestad que tanto lo han mostrado en la obediencia y asistencia que la han tenido en este dicho puesto, conservandoles exhorto y requiero, en nombre de su Magestad, a dicha republica les den a entender no hagan novedad mas que la dicha representacion a su Excellencia dicho Señor Virey, que como principe y ser tan soberano y ser lugar teniente

del Rey Ntro. Señor, asistira a proveer el alivio que representan pedir. Y para que conste de este dicho auto, tomo devolverselo con el dicho pedimento original, lo provei y firme en este pueblo del Paso con asistencia de mi secretario de gobierno y guerra en dicho dia, mes y ano, ut supra.

DON DIEGO DE VARGAS ZAPATA LUJAN PONCE DE LEON.

Ante mi.

JUAN PAEZ HURDATO,
Secretaro de Gno. y Gerra.

311 PLAINTIFFS' EXHIBIT.—TRANSLATION SPANISH DOCUMENT.

1692

To the Governor and Captain-General:

The corporation, magistrate, and councilmen of the "villa" of Santa Fe, of the provinces of New Mexico that are to-day at this place on the "Rio del Norte," in the name of all the inhabitants residing in this place and district of the jurisdiction, appear before your excellency in form of supplication and as may best suit the rights of this community; and premising whatever may be necessary, we say, that it is nearly twelve years, which will be up in the month of October next, that as loyal vassals of the King our Lord we have been and are residing in this country, without the means to keep ourselves middlingly, on corn alone, because the place is unsuitable, for the land is so sterile that except by constant watering no grain can be gathered. And this when the greater difficulty does not occur of the main ditch drying at the best of times [illegible]; and even if the greatest diligence is used, as we all do, it serves rather as a greater difficulty, because they dispute one with another. So that we all come to the same need, and even in the impossible case of the ditch being safe, the want of oxen would not allow us to extend the plantations, as we work personally; and even were it not so difficult to find them, the place does not afford a spot to maintain them on, nor to breed cattle or sheep, nor still less horses with which to do the work, for your excellency knows how many people passed within a few days and with how few horses they passed before you, mostly belonging to residents; and that as regards clothing, were it not for bartering with the soldiers some of us would be going naked, while others, who go off to work in the mines, by dint of labor seek a shirt, or a skirt for their wives, and as they are so far from stores, when they return, as they find their families starving, they have to sell the little they bring to the Indians of the Pueblos for supplies to maintain themselves with; hence we are ever kept, your excellency, in the same straights, the more so that we have no farms or lands in which to labor as on our private property, for although the General Don Domingo Xironza de Cruzate was ordered by the Supreme Government to give possession of lands, waters, and watering places, this corporation, magistrate, and councilmen do not know what motives he had for not so doing; & ever is this community, under your orders, under these great difficulties, [illegible] this corporation, magistrate, & council-

312 men represent to your excellency as we do, in order that your excellency, knowing all this of your own knowledge, and caring as you do for the vassals of His Majesty, may be pleased to perceive that it is

impossible for this community to remain here for the future, but rather will it perish of nakedness and starvation; and it is pitiable, lord governor and captain-general, that this kingdom of New Mexico, having a declared jurisdiction extending to the river Nomen de Dio, where there are places of great excellence, that we should have to dwell in the worst and at the mercy of the Indians. Your excellency, as the living image of the King our Lord, be pleased to protect his vassals, and that they may not perish, for we maintain and cover (sustintamos) our bodies miraculously; concede us permission to all this community to populate the place which may be found most suitable on the river Nom. de Dio, or Sacramento, or valley of San Martin, for in any of the three places the "villa" may be populated, where we may serve His Majesty as his loyal vassals, and shall be better situated for our advantage; and for all the rest that we could allege in the name & interest of this community, this corporation, magistrate, and councilmen pray and entreat that you will so decree and order; for, granting this, your excellency, all this community will leave about the month of October, which is the best season for doing so. Thus, your excellency, will this corporation, magistrate, and councilmen receive, in the name of the community, grace and mercy, and we swear before God our Lord and the sign of the holy cross (X), in our souls and those of our people, that this our petition is not malicious, but for the obtaining of justice, which is what we ask and what is necessary.

FRANCISCO DE ANAYA ALMAZAN.
ANTONIO LUCERO DE GODOY.
ANTONIO MONTOYA.
DIEGO MONTOYA.
TIBURCIO DE ORTEGA,
Secretary of the Corporation.

Decree.

At the town of Paso del Rio del Norte, on the twenty-sixth of June, sixteen hundred and ninety-two, before me, Don Diego de Vargas Zapata Lujan Ponce de Leon, governor and captain-general of this province and kingdom of New Mexico, and warden of the fortresses and garrisons of his majesty, the very illustrious corporation, magistrate, and councilmen, likewise for his majesty, presented the petition on the preceding
313 page, which I desired my government and war secretary to read to me in their presence. And on this being done, having listened and attended thereto with the necessary consideration, I command that, notwithstanding their statement is manifestly justifiable, and what they represent is truly pitiable, of my own self I am unable to remedy it, and still less to grant the permission which the said illustrious corporation petitions for, in the name of all the community and population, to leave and populate the places they mention, which only his excellency the viceroy of all New Spain can do after inspection of the grant-title, or instrument on which General Don Domingo Xironza, my predecessor, ordered them to remain. When his highness will determine whatever may be and he shall find most expedient for the benefit of all. [illegible] let the very illustrious corporation endeavour to show his excellency with this petition and decree, and whatever else they can adduce in support of their rights, for themselves and in the name of the said community, for I, for my part,

repeat that I cannot gratify them by granting their petition, but I do exhort and require them in the name of his majesty, as his majesty's loyal vassals, which they have fully shown themselves to be by their obedience and persistence in maintaining said place, that they make the community understand that they must make no change further than the said address to his excellency the said viceroy, who, as prince and most sovereign lord and lieutenant of the King our Lord, will endeavour to provide the relief they present themselves to ask. And that this may be manifest, I order that this decree be returned to them with the said original petition. This I have ordered and signed in this town of El Paso, with the assistence of my secretary of government and war, on the said day, month, and year ut supra.

DON DIEGO DE VARGAS ZAPATA PONCE DE LEON.

Ante mi:

JUAN PAEZ HURTADO?
Secretario de Gno. y Grra.

314 — And be it further remembered that, upon the trial of said cause, there were introduced in evidence certain exhibits in behalf of the United States; which said exhibits are in the words and figures following, to wit:

Archive 422. Grant made by Governor and Captain-General Don Diego de Vargas Zapata Lujan Ponce de Leon to Juan Lucero de Godoi, January 15, 1693. Transcript and translation.

315 Archive 422. Peticion de Juan Lusero de Godoy en 15 de Enero de 1693 as.

Sor. GOVOR. Y CAPN. GEN.:

El sargento mayor Jun. Lusero de Godoy, vesino de la villa de Santa Fe, en las provincias del Nuebo Mexico y residente en este puo. del Paso, paresco ante V. S. en la m'yor bia y forma que el der'cho me consede, y digo que yo yse besindad en la dicha billa de Santa Fee desde la edad de diez y siete anos hasta el ano de ochenta, que fue el de la sulebacion y alsamiento general de aquellas probincias, acudiendo siempre al servicio de su majestad en todo lo que me fue ordenado por mis superiores, como es publico y notorio, siendo uno de los que nos allamos en la dicha billa de Sta. Fee en la defensa del real estandarte como asi mismo bine en compania de mi gobernador y capn. genl., acudiendo siempre a las belas y sentinelas que beniamos asiendo por el camino asta llegar a este puesto, adonde asistido con la prontitud y obediencia que soy obligado al rey nuestro Senor sin querer nunca desamparar esta plasa de armas, pues aunque se me han ofresido muchas buenas conbenencias de parte de alguna persona o personas que me an enbiado a llamar no las he querido aseptar, antes si las he despresiado mirando solo a bolber a mi tierra y acabar mis dias en servisio de el Rey Ntro. Senor en que e bibido cincuenta y dos años, pues le empese a serbir desde los diez y siete hasta los sesenta y nueve en que oy me allo, y por cuanto ya fue Dios servido que V. S. a tenido la dicha de bolber a recuperar aquel reino y estamos para haser la entrada con V. S. a ser nueba besindad y soy yo uno de los besinos de la billa de Santa Fee a donde posei muchos anos un sitio de casa y tierras de labor que esta como dos tiros de arcabus fuera de la dicha billa por el rio abajo que core por la dicha billa, y e tenido notisia que en la mesma casa donde yo abitaba

an fabricado los Indios un torreonsillo y las tierras de labor que le competen al dicho sitio son desde un camino por donde se ba al pueblo de
316 Tesuqe. asta abajo de la dicha casa y lindan de la parte del norte hasta un arroyo seco que baja de la siera y ba dando buelta a todas las tierras, y por la parte del sur cojen hasta el mesmo rio desde un pueblo quemado que esta junto a otro en que bibia el Capn. Juo. Gonsales, ban las cuales dichas tierras con el sitio de casa que llebo referido con sus entradas y salidas y todo lo que les pertenese es mio propio, pues lo gose y posei por mersed de su Magestad en cuyo real nombre pido y suplico a V. S. sea servido de mandarme despachar nueva mersed del, y que en llegando a la dicha villa de Santa Fee se me de posesion real y personal que en aserlo V. S. asi me ara bien y mersed, y juro a Dios y a la senal de la Sta. Crus + que este mi pedimento no es de malisia sino solo a fin de alcansar justta. la cual pido y el real ausilio imploro en lo necesario, &a.

JUAN LUSERO DE GODOY. [Rubric.]

Y vista por mi dho. Govor. y Cappn. Genl. la hube por presentada en quto. a lugar en dro. y digo que en llegando a la villa de Santa Fee se le hara justisia dandole la posesion qe. pide de las dhas. tierras y torreonzillo sin perjuicio de terseros qe. mejor dro. tenga y esta petizion con este decreto se le debuelba al contenido para qe. lo presste. ante mi cada y cuando le combenga, y lo firme com mi secro. de gno. y gura. en este pueblo del Paso en quinze de Heno. de mil seistos. y novta. y tres as.

D. DIEGO DE VARGAS ZAPATA LUJAN PONZE DE LEON.

Ante mi:

ALPHONSO RAEL DE AGLAR,
Sro. de Gno. y Gura.
Sr. Govor. y Cappn. Genl.

El sargento mayor Juo. Lusero de Godoi, vesino de esta villa de Sta. Fee, que lo fui mas tiempo de cuarenta anos, paresco ante V. S. en la mas bastante forma que aya lugar en derecho y al mio conbenga y digo que cuando V. S. bolbio de este reino del Nuevo Mexico abiendolo dejado conquistado, pasificado, y devajo de la obedienca de el Rei Nro. Sr. (que Dios guarde) y llegando V. S. al paso del Rio del Norte adonde lo era residente
317 catorse años abia desde la sublebasion de estos Indios cristianos, paresi ante VS.a presentando la peticion que ago demonstracion y decreto a mi favor que VS.a fue servido de prober, a cuyos tenores me refiero luego que S. Sa. llego a esta villa de Sta. Fe y asento su real a la falda del monte que llaman de Cuma, enfrente de las tierras de labor que yo alego ser mias juntamente con el torreonsillo que los Indios apostatas abian demolido mi casa fabricaron alli, pedi a V. Sa. me diese lisensia para yrme con mi mujer y familia a bibir al dho. torreon como me la consedio atento a estar muy serca del dho. real y resguardados para qualquier acaesmiento, adonde asisti tomando la posesion personal del dicho torreon en cuyo solar abia estado fabricada la dha. mi casa asta que los Indios apostatas que assistian en este fuerte que ysieron en las casas rles. se bolbieron alterar, y V. Sa. les gano esta fuersa a donde todos los vesinos nos ospedamos, y luego que llego el tiempo de sembrar, preste en las dhas. mis tierras a donde sembraran diferentes personas como fueron al reberendo Pe. Preor. Fr. Anto. de Obregon, al Capn. Don Alonzo Rael de Aguilar mi compadre, al Capn. Don Ferdo. Duran y Chaves y a mi suegra Dona

Bernardina de Salas, que todos sembramos, cada uno un pedasillo por estar de los mas inmediatos a esta villa de Santa Fee; y por cuanto, despues que llegamos a esta dicha villa e reconosido que por la parte del oriente asta la bereda Rl. que es el lindero de las dichas mis tierras, no es el que agora se cursa para ir al pueblo de Tesuque, el que yo alego que pasa pegado a mis tierras y aora el que mas contino se anda esta mas inmediato a esta villa de Santa Fee, y para que no se entienda que yo pido ni e pedido lo que no me toca ni es mio, ago esta especificacion declarando que todo la que ba a desir de tierra de la referida bereda o camino, que si ni la dha. mi tierra pasaba asta el arroyo a donde se junta la bereda nueba es lo que a mi toca de alli para avajo asta lindar con tierras de Da. Ma. de Bera como
318 consta y espresa en mi primera peticion, y por agora se ba llegando el tiempo de la siembra y me es forsoso el mudarme al dho. torreon para ber si puedo lograr una buena cosecha para el sustento de mi familia que oi se compone de nueve personas que somos mis hijos y criados.

A V. S. pido y suppco. con el rendimento debido para mayor fuersa y balidasion de la nueva mersed que V. S. me tiene fecha, se sirva de mandar se me de la posesion Rl. de que nesesito, con todas las solenidades que en tal caso se requieren, y se me debuelba la una y la otra peticion para en guarda de mi derecho y que despues de mis dias la gosen y posean mis hijos y erederos y susesores, y juro a Dios y a la senal de la Sta. Cruz que esta mi peticion y relacion que en ella ago no es de malisia, sino por alcansar justicia, la qual pido el Rl. ausilio de V. S. ynploro y en lo nesesario, &c.

JUN. LUSERO DE GODOY. [Rubrica.]

En esta villa de Sta. Fee, en siete dias del mes de Abril de mil seistos. nobenta y cinco anos, ante mi, Don Diego de Vargas Zapata Lujan Ponze de Leon, govor. y capn. genl. de este reino y prova. de la Nueva Mexico, su nuevo restaurador conqdor. a su costa reconqdor. y poblador en el y castellano de sus fuerzas y presidios por su Magd. la presto. el contenido y vista por mi dho. Govor. y Capn. Genl. la hube por presentada y asi de luego en atenzn. de los descritos le rebalido y de nuevo en este le hago la mrd. que me pide en nombre de su Magd. para que gose y posea las dhas. tierras declaradas con el torreon y de nuevo si le pareciere vivir en el, o reedificar casa lo pueda haser y estandolo se le dara la posesion judicial seguida a este decreto de mrd. y para que conste y le sirba a su favor hijos erederos y sus susesores, lo firme, en esta villa de Santa Fe, con mi secretrio. de govn. y guerra.

DIEGO DE VARGAS ZAPATA LUJAN PONZE DE LEON.

Ante mi:

ALPHONSO RAEL DE AGLAR,
Sro. de Govon. y Gura.

319 Archive 422. Petition of Juan Lusero de Godoy on the 15th of January, 1693.

To His Excellency the GOVERNOR AND CAPTAIN-GENERAL:

I, the sergeant-major, Juan Lusero Godoy, inhabitant of the town of Santa Fe, in the provinces of New Mexico, and resi*ng*ing at this garrison of El Paso, appear before your excellency in the best form allowed to me by law and say that I took up my habitation in the said town of Santa Fe since I was 17 years of age up to the year eighty, which was the year of

the insurrection and *and* general rebellion in those provinces, attending always to the service of his majesty in whatever I was commanded by my superiors, as is well known and notorious, I being one of those persons at Santa Fe defending the royal standard; likewise did I come in company of my governor and captain-general, always attending to the watches and keeping guard along the way until we arrived at this place, where I have attended to the services of the King my lord with the promptness and obedience to which I am bound, without ever entertaining the idea of abandoning this fort, for though several offers have been made to me by some person or persons who have sent for me, I declined the same, looking upon them with contempt, my resolution being only the return to my country and there end my days in the service of the King our lord, in which I have employed fifty-two years, for I began to serve him when I was seventeen up to my sixty-ninth year, that being my present age, and whereas God has been pleased that your excellency should have the happiness of again recovering that kingdom, and we are about to enter it with your excellency to settle it anew, and I am one of the inhabitants of the town of Santa Fe, where I was the owner of a tract for house and farming land, which lies about two arquebuse shots outside of the town, and I learned that at the same house where I used to live the Indians have built a small round tower (torrloncillo), and the farm
320 lands belonging to said tract stretch from a road, and that leads to the pueblo of Tesuque up to a point below the said house, and its boundary on the north is up to a dry gulch (arroyo seco) that comes down from the mountains (sierra) and goes turning around about all the lands, and on the south they run up to the river itself from a burnt pueblo that is situated near another one, where Captain Jno. Gonsales used to live, which said lands, with the tract for house that I have stated, with inlets and outlets and everything belonging to them, is my own, for I enjoyed and possessed it as a grant from his majesty, in whose royal name I ask and petition your excellency to be pleased to have a new grant issued to me for the same, and that as soon as we arrive at said town of Santa Fe royal and personal possession shall be given me, for in so doing your excellency will do me grace and benefit, and I swear to God and to the sign of the Holy Cross + that this my petition is not done in bad faith, but only with a view to getting justice, which I ask and I implore the royal help in the necessary, etc.

JUAN LUSERO DE GODOY. [Rubric.]

And it having been seen by me, the governor and captain-general, I received it for what it may be worth in law, and I say that as soon as we shall arrive at the town of Santa Fe justice will be done to him, giving him the possession of the said lands which he asks for and the little round tower without prejudice to third parties who may have a better claim to this petition. With this decree let it be returned to the party mentioned in order that he may produce it to me when and where it may suit him; and I signed it with my secretary of government and war in this settlement *pf* El Paso on the fifteenth of the month of January, 1693.

D. DIEGO DE VARGAS ZAPATA LUJAN PONZE DE LEON.

Before me:

ALPHONSO RAEL DE AGLAR,
Sec. of Gov. and War.

321 To His Excellency the GOVERNOR AND CAPTAIN-GENERAL:

I, the sargeant-major, Jno. Lusero de Godoy, inhabitant of this town of Santa Fe, having been such for over forty years, appear before your excellency in the best form allowed me by law and state that when your excellency retirned to this kingdom of New Mexico, having conquered, pacified and reduced it to obedience to the King our Lord (whom may God preserve), and your excellency having arrived at El Paso of the Rio del Norte, where I had resided for fourteen years since the uprising of these Christian Indians, I appeared before your excellency presenting the petition I make, demonstration and decree in my favor, which your excellency has seen fit to provide, to whose contents I make reference, and when your excellency arrived in the town of Santa Fe and made your camp on the slope or side of the mountain (monte) that is called cuma, opposite the farming lands which I allege to be mine, together with the little round tower, for the apostate Indians had torn down my house and built it there, I asked your excellency to let me go with my wife and family to live in the said tower, which license you granted me because it was very near to the said camp, and it was well protected for any emergency, to which matter I attended by taking personal possession of the said tower, on which lot my house had stood until the apostate Indians that were at this fort, into which they had converted the royal houses, again made another uprising and your excellency beat them out of this place, where all the inhabitants then took up our abode, and when the time for ploughing arrived I lent out ground on my said lands for farming to several persons, as to the Reverend Father Fray Anto. de Obregon, to the Captain Don Alonso Rael de Aguilar, my compadre, to Captain Don Ferdo. Duran y Chavez, and to my mother-in-law, Dona Bernardina de Salas, for we all each one of us farmed a small patch, which were those lying nearest to this town of S'ta Fe, whereas after our arrival to this said town I
322 have noticed that on the eastern side up to the common trail (verda real), which is the boundary of my said lands, it is not the same one that is now travelled in going to the pueblo of Tesuque; that which I allege passes close to my lands and which at the present time is more commonly used is nearer to this town of Santa Fe; and in order that it may not be understood that I petitioned for or have petitioned for what does not belong to me, I make this statement, declaring that so far as the land along the said trail or road is concerned that indeed it did not reach up to the arroyo. What belongs to me lies from where the new trail comes in down to where they adjoin with lands of Da. Ma. de Bera, as it appears from and is stated in my first petition, and because already the farming season is near at hand, and since it is necessary for me to transport myself to the said round tower to see if I can succeed in obtaining a good harvest for the support of my family, which at the present day consists of nine persons, my sons and servants counted, I ask and pray your excellency with due submission that for the greater validity and effect of the grant that you have already made to me you may command that I be placed in royal possession, which I need with all the solemnities required in such cases, and that both petitions be returned to me for the protection of my right, and that after my death my children, heirs, and successors may enjoy it, and I swear to God and the Holy Cross that this my petition and the

statements made in it are not in bad faith, but for the purpose of having justice done, which I ask and I implore the royal help and in the necessary, etc.

JUN. LUSERO DE GODOY. [Rubric.]

In this town of Santa Fe, on the seventh day of the month of April, year 1695, before me, Don Diego de Vargas Zapata Lujan Ponze de Leon, governor and captain-general of this kingdom and province of New Mexico, its new reclaimer at my own e/pense, and its settler and commander of its forces and garrisons for his majesty, the party mentioned in it pre-
323 sented it, and it having been seen by me, the said governor and captain-general, I received it and at once, in view o' its recitals, I revalidate to him, and by this I make him a grant owner, as he asks of me, in the name of his majesty, in order that he may enjoy and possess the stated lands with the round tower, and again, if he sees proper, to live in it or to rebuild a house he may do so, and that being done he shall be given the juridical possession to follow immediately after this granting decree, and that it may so appear and be for his benefit, that of his children, heirs, and successors, I signed it in this town of Santa Fe, with my secretary of government and war.

DIEGO DE VARGAS XAPATA LUJAN PONZE DE LEON.

Before me:

ALPHONSO RAEL DE AGLAR,
Sec. of Gov. and War.

324 Archive 423. Certified copy of petition and granting decree of grant made by Governor and Captain-General Don Pedro Rodriguez Cubero on July 13, 1697. to Antonio Lucero de Godoi. Transcript and translation.

325 Arch. 423. Sr. Governador y Capitan General: El Ayudante Antonio Lusero de Godoi, rrejidor de esta villa de Santa Fe y vesino de es/tas provincias del Nuevo Mexico, originario de ellas, paresco ante V. S. en la mejor forma que aya lugar en derecho y al mio convenga, y digo que para mejor continuar en la vesindad de esta dicha villa y en el rreal servicio de su Magestad nesesito de un sitio de casa en donde hoy tengo armado un jacal en que vivo, que es como vamos para el camino del pueblo de Tesuque en unas lomas vajas que asen con las tierras juntamente que le circuittan, que por la parte del nort/e lindan con un arroyo seco que baja de la sierra y por la parte del oriente lindan con la bereda que va al pueblo de Tesuque y por la parte del poniente con tierras del sarjento mayor, Jun. Luzero de Godoi, mi padre, y por la parte del rrio que es para el sur, con tierras de Alonso Maese y de Juan Gonsales Lobon, que en todas ellas cabra de sembradura como media fanega de maiz y dos de trigo, que para poder pasar con mi familia cresida es muy ttasitta porsion de tierras, suplico a V. S. se sirva de atender a los servisios que tengo hechos a su Magestad, pues desde la primera enttrada que hiso a este reino el general Don Diego de Vargas fui yo quien vino guiando los sinquentta soldados de rrefuerzo que su Magesttad le dio para el efecto de la conquistta y andube en ella serca de la poersona de dicho general, como asi mismo en la enttrada con las familias fui yo uno de los que sin reparar en lo rriesgoso del yvierno metti mi familia de mujer y hijos espuestos a muchas

yncomodidades, como se esperimentaron en este reino y en ttoda la conquista, siempre acompane a dicho general a mi costa y mension como es publico y nottorio y que no he tenido ninguna remuneracion, y pues V. S. representa al Rey, nuestro señor, se sirva de atender a mis servicios y como su rreal ministro y que tiene toda su autoridad, me aga merce en su real nombre de lo que pido, aviendo mi relacion por verdadera, la cual juro a Dios y a la senal de la santa cruz + que es ciertto como lo refiero, y solo a fin de alcansar justicia, la cual pido y el real ausilio de V. S. ynploro.

326 ANTONIO LUZERO DE GODOY.

Presentazion.

En esta villa de Santa Fe, en treinta dias del mes de Julio de mil seiscientos y noventa y siete anos, ante mi, Don Pedro Rogriguez Cubero, governador y capitan general de este reino y provincias de la Nueva Mexico, castellano de sus fuerzas y presidios, electo governador y capitan general de las provinsias de Maricabo Merida y la Gritta, castellano propietario del castillo San Salvador de la punta de la *cuid*ad de lavana por su Magestad, la presento el contenido. Autto. y por mi vista la hube por presentada en cuanto a hugar en derecho y en atenzion a los servicios que representa haber hecho a su magestad en este dicho reino, desde luego le hago la merced que el suplicante pide de las dichas tierras, en nombre de su Magestad, sin perjuicio de terseros que mejor derecho tengan, las cuales dichas tierras y merced se la hago al susodicho Antonio Luzero, para que el susodicho la gose, pueble, siembre, posea, su mujer, hijos y herederos, y mando que esta peticion y merced, hecha a favor de dicho Antonio Luzero, la lleve el susodicho y la presenta ante el cabildo, justicia y regimiento de esta dicha villa y para que en su archivo tormen razon y conste en todo tiempo, y tormada que sea la devuelvan para que se le de el titulo en forma; y para que conste, lo firme con el infraescrito secretario de govierno y guerra.

PEDRO RODRIGUEZ CUBERO.

Ante mi:

DON ALONSO RAEL DE AGUILAR,
Secretario de Gobierno y Guerra.

Luego incontinenti en dicho dia, mes y ano, en cumplimiento de lo proveido por el Senor Governador y Capitan General Don Pedro Rodriguez Cubero, el cabildo, justicia y regimiento le hubo por presentado en cuanto a lugar en derecho y para que conste, lo firmamos con el escribano de cabildo, fecho ut supra.

Concuerdo con el original que para en el archivo de govierno y guerra de esta dicha villa y va cierto y verdadero, segun y como y se hallaron para lo ber corregir y consertar Xpttoval de Gongora y Juan Antonio Ramos; y io, dicho escribano de cavildo, hago mi signo y rubrica acostumbrada en testimonio de verdad.

MIGUEL TENORIO DE ALVA, [Rubrica.]
Escrivano de Cavildo.

327 Archive 423. To his excellency the governor and captain general, I, the adjutant, Antonio Lusero de Godoi, aldermen of this town of Santa Fé and inhabitant of these provinces of New Mexico,

native of the same, appear before your excellency in the best form allowed me by law and say that in order to better continue in the community of this said town and in the royal service of his majesty, I need a tract for a house at the place where at present day I have a shanty standing in which I live, situate in the direction of the road to the pueblo of Tesuque, upon some low hills (lomas vajas) that are there together with the lands that surround them which on the north adjoin with a dry gulch (arroyo seco) that comes down from the mountains (sierra), and on the east they adjoin with the trail (vereda) that leads to the pueblo of Tesuque, and on the west with lands of the sargeant major Jun. Lus'ro de Godoi, my father, and on the side of the river which is to the south with lands of Aionso Maese and of Juan Gonsales Lobon, upon all of which lands there probably may be embraced about one-half fanega of corn and two of wheat, for in order that I may go there with my numerous family, it is a very (illegible, one word) portion of land I ask your excellency to be pleased to remember my services that I have rendered to his majesty, for since the time of the first entry made into this Kingdom by General Don Diego de Vargas, I was the one to guide the fifty soldiers of the reinforcements that his majesty gave him for making the conquest, and during the conquest I remained near to the person of the said general, as likewise in the entry with the families. I was one of those who, not stopping to consider the danger of the winter, conveyed my family of my wife and children, they being exposed to many discomforts such as are experienced in this kingdom, and during all the conquest I always accompanied the said general at my own expense (one word illegible) as is public and notorious, and that I have not had any reward; and since your excellency repre-
328 sented the King our lord, that you be pleased to attend to my services, and as the royal agent of him and having as you do all his authority, that you grant to me in his royal name what I ask, accepting my statement as true, which I swear to God and to the sign of the holy cross + that it is as I have stated and only for the purpose of obtaining justice which I ask, and I implore the royal help of your excellency.

ANTONIO LUCERO DE GODOI.

Presentation.

In this town of Santa Fe, on the 30th day of the month of July, 1697, before me, Don Pedro Rodrigas Cubero, governor and captain general of this kingdom and provinces of New Mexico, commander of its forces and garrisons, governor elect and captain general of the provinces of Macibo, Merida, and La Gritta, proprietary commander of the castle of San Salvador at Punta of the city of Havana, for his majesty, the party stated, presented it. Order. And I having seen it, accept it as presented for what it may be worth in law, and in view of the services that he states to have rendered to his majesty in this said kingdom, I at once made him the grant that the petitioner asks of the lands stated in the name of his majesty, without prejudice to third parties who may have a better claim, which said lands and grant I give to the said Antonio Lucero in order that he may enjoy, settle, cultivate, and possess, his wife, children, and heirs, and I command that this petition and grant made in favor of said Antonio Lucero the said party do take and present it before the cabildo, justices,

and aldermen of this said town, in order that they in their archive a record may be made (se tome razon) that it may there appear at all times, and when that being done they shall return it in order that a title in due form may be issued to him, and that it may so appear I signed it with the undersigned secretary of government and war.

PEDRO RODRIGUES CUBERO.

Before me:

DON ALONSO RAEL DE AGUILAR,
Secretary of Government and War.

329 Immediately thereafter on said day, month, and year, in pursuance of what was provided by his excellency the governor and captain-general, the cabildo, justices, and aldermen received it as presented for what it may be worth in law, and that it may so appear we signed it with the secretary of cabildo on the date as above.

It agrees with the original that remains in the archive of government and war of this said town, and it is true and certain according to the same; and at its correction and comparing were present Cristobal de Gongura and Juan Antonio Ramos, and I, said secretary of cabildo, make my sign and customary rebric in testimony of the truth.

MIGUEL TENORIO DE ALVA, [Rubrica.]
Secretary of Cabildo.

330 Document numbered 2 in private land claim, file 4, in office of U. S. surveyor-general, Santa Fe, New Mexico. It is the grant of the cienega to the cabildo of Santa Fe by Governor and Captain-General Mogollon, on August 20, 1715. Transcript and translation.

331 File 4. Don Jun. Ygnacio Flores Mogollon, govor. y capn. gral. de este reino y provinzas de la Nueva Mexico y Castellano de sus fuerzas y presidios por su Magd., &c.

Por quanto el dia veinte y quatro del pasado mes de Julio, el ylle. cavildo de esta villa me hizo representazion sobre distintos puntos y uno de ellos es que atenzion a que la zienega, que ai al lado de este castillo que en mira al este es realenga, se la adjudique para propios de la villa en nre. de S. M. para que los vesios. gozen del beneficio y utilidad de poder cortar zacate pra. sus bestias, como lo han echo y estan haziendo asta aqui, y por que en auto que expedi al pie de dha. representazon. el dia veinte y siete del dicho mes de Julio, dando providenzia sobre los demas puntos que en dha. representazion se me hazen, digo que en atencion a ser tan justificado este pedimto. y a ser realenga dha. zienega, le ago la merzed en nre. de S. M., que Dios guarde, y mande se le diese despacho a parte de ella en virtud de la facultad que me es conzedida por razon de mi empleo: le ago mrzd. a dho. ylle. cabildo, de la zienega referida, en el estado en que oy se alla por aver adjudicado al Capn. Diego Arias de Quiros un pedazo en que, a muchos dias, se avia introduzido sembrandolo, como tambien le hize mrzd. de un ojito de [torn] que abrio, haziendo tanque para poder regar (roto) como todo consta de los autos que (roto) cabildo, y para que se halle enterado de lo determinado sobre todos los puntos de su representazon. y de la calidad con que tengo echa la referida mrzd. del dho. tanque y pedazo de zienega que siembra dho. Capn. Diego Arias, pra. que pueda

pedir dho. ylle. cavildo spre. que falte a alguna de las zircunstancias con que le hize la mrzd. y que lo mismo pueda pedir contra las personas que an ymposivilitado las entradas, salidas y calles antiguas de esta Va., mando se le de testimo., a la letra, de dhos. autos que. paran en la secretaria de este Govno., para que lo tenga en su archivo dho. ylle. cavildo y que
332 spre. le conste y de esta mrzd. de haverle adjudicado la zienega, se tomara razon en el libro de mrzds. y asientos de esta govon. que es fecho en esta villa de Santa Fee de la Na. Mexco. en veinte de Agosto de mil setezos. y quinze as.; y lo firme con mi secreo. de govon. y guerra.

DON JUAN YGNACIO FLORES MOGOLLON,
Por mdo. del Sor. Govor. y Capn. Gral.

ROQUE DE PINTTO,
Secro. de Gon. y Guerra. [Rubric.]

En dho. dia thome la razon.

333 File 4. I, Don Juan Ygnacio Flores Mogollon, governor and captain-general of this kingdom and provinces of New Mexico, and commander of its forces and garrisons for his majesty, &c. Whereas, on the 24th day of the month of July past, the illustrious cabildo of this town made a presentation to me with regard to various matters, and one of them was that, whereas the swamp (cienega) that lies to one side of this castle, looking to the east, is royal domain, that it should be adjudicated as municipal land (propios) of the town, in the name of his majesty, so that the inhabitants may enjoy the benefit and use of cutting hay for their animals as they have done heretofore and are doing until now, and because in an order I issued at the foot of said presentation on the 27th day of the said month of July, making provisions with regard to the other points stated to me in said representation, I say that because this petition is so justified, and because the said swamp (cienega) is royal domain, I make it the grant in the name of his majesty (whom may God preserve), and I order that a portion of it should be executed by virtue of the faculty conferred on my on account of my office, I grant to the said illustrious cabildo the said swamp (cienega), in the condition in which it is at present, for the reason that a piece thereof has been adjudicated to Captain Diego Arias de Quiros, on which he has introduced himself for many days by farming on it; likewise did I grant him a small spring of [torn], that he had taken out making a tank in order to be able to irrigate [torn]. As all appears from the proceedings that [torn] spring or tank were formed [torn], cabildo, and that he may become acquainted with all the points of his representation, and the condition with which I have made the said grant for the said tank and piece of swamp (cienega), farmed by the said Captain Diego Arias, in order that said illustrious cabildo may ask whenever he fails in any of the circumstances with which I made him
334 the grant; and likewise shall it be able to ask as against other persons that having obstructed the inlets and outlets, and ancient streets of this town, I order that testimonio of said proceedings shall be given to it literally, said proceedings being now in the office of the secretary of this government, in order that said illustrious cabildo may keep it in its archive, and that it may there always appear; and of this grant, with regard that the swamp (cienega) has been adjudicated to it, record shall be made (se tomare razon) in the book of grants and

entries of this government. It is done at this town of Santa Fe, of New Mexico, on the 20th day of August, 1715, and I signed it with my secretary of government and war.

Don JUAN YGNACIO FLORES MOGOLLON.

By command of his excellency the governor and captain-general:

ROQUE DE PINTTO,
Secretary of Government and War. [Rubrica.]

I made the record on said day (tome la razon).

335 Archive 85. Record of two grants.

Certified copy of grant made by Governor and Captain-General Juan Domingo de Bustamante in August, 1728, to Juan Leon Brito.

Grant by Governor and Captain-General Gaspar Domingo de Mendoza on August 20, 1742, to Juan Leon Brito.

Transcripts and translations.

336 Archive 85. Villa de Sta. Fee y Agosto sinco de mil setesientos y veinte y ocho as., ante el Sr. Governandor y Capn. General de este reino de la Nueva Mexico, se presento por el contenido en el Jun. de Leon Brito, Mexicano y poblador del barrio de Analco, de esta villa de Santa Fee, ante Vssa. paresco, en la mas bastante forma que el derecho me consede y digo, que habiendo entrado a este reino y averme echo mersed de unas tierras que eran de mi padre (que Dios aia) el Gl. Dn. Diego de Vargas y Sapata Lujan Ponse de Leon, ya difunto, en nombre de su Magd. de un sitio de tierras y aora haberlo poblado y hallarme sin dicha merced, pido a la grandesa de Vssa. se sirva revalidarme dha. tierra, la cual esta en la otra banda de esta villa, que tiene sus linderos por la parte del norte con la sequia que riega el Capn. Bargas, y por el sur con otra asequia del dho., y por el oriente con tierras de Pedro Lopes, por el poniente con el camino que va para Pecos; por todo lo cual a Vssa. pido y suplico, con la mas benerasion que debo, se sirva concederme dha. mersed, en nombre del rei mi amo, de dhas. tierras para mi, i mi esposa, i mis hijos i erederos, que juro por Dios nuestro senor y la Santa Cruz, este mi escripto no ser de malisia i en lo nesesario, &c.

JUAN DE LEON BRITO.

Ypor ssa. bista, la hubo por presentada y en atencion a lo que la parte espresa, su Sa. dijo que debia mandar y mando se site a Sebastian de Bargas y a Po. Lopes, por ser los mas sercanos a la tierra que esta parte pide, por si tubieren algun derecho a ellas lo representen con los ynstrumentos que tubieren para darle a cada uno la justisia que le asistiere, y no siendo en perjuicio de tercero que mejor derecho tenga, se le adjudique y rrevalide de la posesion de buena fee que gosa, asi lo decreto, mando y firmo su ssa. por ante mi el presente Sro. de Govon. y Guerra, Dn. Jun. Domingo de Bustamante, pr. mdo. del Sr. Gobernador y Capn. General.

ANTTO. DE GRUSIAGA. [Rubrica.]
Secretario de Governacion y Guerra.

337 En dicha villa, en dies y siete dias del mes de Agosto de setesientos y beinte y ocho anos, en virtud de lo mandado por el provimiento de arriva, fue sitado Sebastian de Bargas, quien habiendo sido sabedor del rexistro de tierra que pretende Jun. de Leon Brito, dijo que no es

perjudicado por estar yndegne de sus tierras y solo ser linderos las asequias que sita, por cuya causa no tiene contradision que aser a la posesion y propiedad que la parte pretende, y lo firmo, conmigo, el presente Sro. de governacion y guerra.

SEBASTIAN DE BARGAS.

Por ante mi:

ANTTO. DE GRUCIAGA,
Sro. de Gobernacion y Guerra.

Cincontinenti, para el mismo efecto por no estar Po. Lopes en este reino, se sito a su mujer, quien presento la escritura de venta que Dn. Miguel de Coca iso a Josepha Lopes, hija del dho. Po. Lopes, y por ella consta no prejudicar a esta parte la tierra que pretende Juan de Leon Brito, que solo sita por lindero, por lo cual dijo no tener contradision que aser por no perjudicarle; no firmo por no saber; firmelo yo, de que doy fee.

En dicha villa, mes y ano, el Sr. Governador y Capn. General de este reino de la Nueva Mexico habiendo visto las sitasiones antesedentes y de ellas constar no ser en perjuicio de tersero la mersed de tierras que Juan de Leon Brito pide se haga de nuevo, rebalidendosela que expresa, le iso el General Dn. Diego de Bargas, por no tener *por nor tener* ynstrumento y en vista de todo su Sa., en nombre de su Magestad (Dios le gde.) le hase mersed y rebalida, anparandole como le anpara en la posesion que por si tiene adquerida de buena fee, i aora adquiere judisialmente para que de ella no sea desposeido sin ser primero por derecho bensido, y pueda gosar y gose el fruto de ella el, sus herederos i subsesores y la pueda vender, cambiar y enajenar como suyas propias y la de su mujer, esepto a las personas en derecho provibidas; asi lo decreto, mando y firmo por ante mi, el presente Sro. de governacion y guerra; doi fee.

BUSTAMANTE,
ANTTO. DE GRUCIAGA,
Sro. de Governacion y Guerra.

Conquerda este translado con su orijinal que queda en el archivo de este govierno, de donde lo saque para la parte, oi, trienta de Agosto de setesientos y veintiocho; ba sierto y verdadero correjido y consetado, i a
338 su ber sacar fueron testigos, Jun. Joseph Moreno y Dn. Alonso Rael de Aguilar presentes.

Hago mi firma acostumbrada en testimonio de verdad.

ANTTO. DE GRUCIAGA. [Rubrica.]
Sro. de Goron. y Guerra.

[Second grant.]

SANTA FE, *Agosto* 18, *de* 1742.

Ynforme el alcde. mar. el lugar que tiene el suppte. en este escrito, para probeher lo que convenga.

MENDOZA.

Juan de Leon Brito, vesino de la villa de Santa Fe, puesto a los pies de la grandeza de V. S. en toda forma que el derecho me permite, aya lugar cual me convenga, y digo, senor, que por cuanto me veo cargado de obligaciones que me presisan a mantenerlas, y no tener tierra suficiente por ser corta la que tengo, he tenido por bien de haber rexistrado un pedaso de

tierras el cual esta de la otra banda de el rio que hase canada, y sus linderos son los siguientes. Por el oriente lindan con el camino rl. que ba para los Pecos, por el poniente tambien lindan con otro camino que tambien va ha Pecos, por el sur con tierras de Luiz de Armenta, y por el norte con tierras del Capn. Manl. Thenorio, las cuales tierras las pido en nombre de su Magd. (que Dios guarde) se me de por merzd.

A V. S. S. suplico con todo rendimiento me las conzeda, que soy un pobre, y de conzedermelas se me de la posesion rl., que resibire bien y merzd. Juro en toda forma no ser de malisia este escrito.

JUAN DE LEON BRITO.

Visto y reconosido las tierras que esta parte pide, digo que tienen lugar por aber rexistrado y reconoser ser del Rey mi senor (que Dios guarde), con que puede V. Sa. aser lo que fuere de justicia, que sera como siempre lo mexor; y para que conste, lo firme en diez y nueve de Junio de mil setesientos quarenta y dos as.

ANTTO. DE URIBARRI. [Rubrica.]

339 En la villa de Santa Fe, en veinte de Agosto del ano de mil setesientos cuarenta y dos anos, yo, el Thte. Coronl. Governador y Cappn. General de este reino de Nuevo Mexico, Dn. Garpar Domo. de Mendoza, devia mandar y mande, en virtud del informe del Cappn. Antonio de Ulibari, alcalde mr. de dha. billa, ponga en posesion al suppte. en este escrito de la tierra que pide para que en nombre de su Magd. (Dios le ge.) la posea y cultive; asi lo probe, y mande, y firme con los de mi asistencia, con la actuacion acostumbrada por las zircunstancias, presidentes del dho. reyno. Bale.

DN. GASPAR DOMO. DE MENDOZA. [Rubrica.]

JOSEPH DE TERRUS.
JUN. PHE. DE RIVERA.

En la villa de Santa Fe, en veinte dias del mes de Agosto de mil setesientos quarenta y dos anos, yo, el Capn. Antto. de Hulibari, alcalde mayor de esta villa, en cumplimiento del orden del Senor Coronel D. Jaspar Domingo de Mendosa, governador y capn. gl. de este reino, fui yo, dicho alcalde maior, a las tierras que esta parte sita, y le coxi de la mano y lo pasie por dhas. tierras; aranco sacate, tiro piedras, dio boses disiendo viva el rey, mi senor (que Dios ge.) D. Phelipe Quinto, siendo testigos de esta posesion rl., Tomas de Sena y Caitano Lobato; ansi lo autue con los testigos de mi asistencia a falta de escrivano publico y rl., que no lo hay en este reyno, en el presente papel por no correr de ningun sello en estas partes, de que doy fee.

ANTTO. DE HULIVARRI. [Rubrica.]
Juez Reseptor.

GREGORIO GARDUNO.

340 Archive 85. Town of Santa Fe, August 5th, 1728, before his excellency the governor and captain-general of this kingdom of New Mexico, it was presented by the party stated therein, to wit, Jun. de Leon Brito, Mexican, and settler of the ward of Analco, in this town of Santa Fe: I appear before your excellency in the best form allowed me by law and say that I, having come into this kingdom, and a grant having

been made to me of certain lands that formerly belonged to my father, may he rest in peace, by the General Don Diego de Vargas y Sapata Lujan Ponse de Leon, deceased, in the name of his majesty, consisting of one sitio of lands, and now I having settled on it, and because the said grant papers are not in my possession, I ask of your greatness to revalidate to me the said land, which lies at the other side (banda) of this town, its boundaries being, on the north the acequia from which Captain Bargas irrigates, and on the south another ditch of the same person, and on the east lands of Pedro Lopez, on the west the road leading to Pecos; for all of which I ask and beg of your excellency, with the greatest veneration due, to concede to me said grant of said lands in the name of the King my master, for myself and my wife and my children and heirs, for I swear by God our Lord and the Holy Cross that this my statement is not made in bad faith, and in the necessary, etc.

JUAN DE LEON BRITO.

And it having been seen by his excellency he received it as presented, and in view of what the party states his excellency said that he ought and did command Sebastian de Bargas and Pedro Lopez, for the reason that these were the nearest neighbors to the lands petitioned for by this party, that if they should have any right to the same they should bring it forward, with such instruments as they might have, in order to give to each one his due, and it not being of any injury to any third party
341 representing a better claim that it should be adjudicated for and revalidated to him in the bona fide possession that he now enjoys. Thus it was decreed, commanded, and signed by his excellency D. Juan Domingo Bastamante before me, the actual secretary of government and war, by order of his excellency the governor and captain-general.

ANTTO. DE GRUSIAGA. [Rubrica.]
Sec. of Gov. & War.

In said town, on the 17th day of the month of August, 1728, by virtue of the command in the above provision, Sebastian de Bargas was cited, who, having known of the registration of land sought by Jun. de Leon Brito, he stated that he is not harmed, for the reason that it lies beyond his own lands, and because the ditches referred to form boundary lines only; in view of which he has no opposition to offer to the possession and ownership sought by the party, and he signed it with me, the actual secretary of government & war.

SEBASTIAN DE BARGAS.

Before me:

ANTTO. DE GRUCIAGA,
Sec. of Gov. & War.

Immediately thereafter, Pedro Lopes not being within this realm, his wife was cited to appear, and she offered the bill of sale made by Don Miguel de Coca to Josepha Lopez, daughter of the said Josepha Lopez, and from its contents it appears that this party is not harmed by the lands asked for by Juan de Leon Brito, for he only cites it as a boundary, on which account she said that she had no objection to make, for she was not harmed; she did not sign, because she did not know how. I signed it, to which I certify.

342 At said town, on said month and year, his excellency the Governor and captain-general of this kingdom of New Mexico, having seen the citations that preceded, and it appearing from them that no harm is occasioned to any third party by the grant of lands which Juan de Leon Brito asks to be revalidated to him anew, which he says were given to him by General Don Diego de Vargas, for the reason that he has no title papers, and in view of all this his excellency, in the name of his majesty, may God preserve him, makes and revalidates to him the grant, protecting him as he does in the possession that he has acquired in good faith for himself and which he now acquires judicially, so that he may not be dispossessed of the same without first being proceeded against according to law, and in order that he, his heirs and successors, may enjoy the products of the same, and in order that he may be able to exchange, sell, and transfer as his own property and of his wife, except that he shall not convey it to prohibited persons, thus be decreed, ordered, and signed before me, the actual secretary of government and war. I certify.

BUSTAMANTE.
ANTTO. DE GRUCIAGA,
Sec. & Gov. & War.

This copy agrees with its original, which remains in the archives of this government, from which I made the same for the benefit of the party on this day, the 30th of August, 1728. It is true and faithful, corrected and compared, and at its making the witnesses were Jun. Joseph Moreno and Don Alfonso Rael de Aguilar, they being present. I make my customary signature in testimony of the truth.

ANTTO. DE GRUCIAGA. [Rubrica.]
Sec. of Gov. & War.

[Second grant.]

Santa Fe, August 18th, 1742. Let the alcalde mayor report if it is proper for the petitioner in this petition, in order to provide what may be convenient.

MENDOZA.

343 Juan de Leon Brito, resident of the town of Santa Fe, at the feet of the greatness of your excellency, in all form allowed to me by law, and which may to me belong, I say, sir, that whereas I am loaded with duties to which I must necessarily attend, and because I have not land sufficient, because that which I have is small, I have seen fit to have registered a tract of lands lying at the other side (banda) of the river where a cañada is formed, and its boundaries are the following: On the east it is bounded by the highway (camino real) that leads to Pecos, on the west it is also bounded by another road that likewise goes to Pecos, on the south with lands of Luiz de Armenta, and on the north with lands of Captain Manuel Thenorio, which lands I ask for in the name of his majesty, whom may God preserve, to be given to me as a grant, I petition your excellency with all due submission to concede them to me, for I am a poor man, and if they are granted to me that royal possession shall be given me, for I will receive grace and profit. I swear in all form that this petition is not done in bad faith.

JUAN DE LEON BRITO.

Having seen and examined the lands petitioned for by this party, I say that it is proper, because he has it registered, and they are recognized as lands of the King my Lord, whom may God preserve, whereupon your excellency may do what shall be just, which shall be as in every case the best, and that it may so appear I signed it on June 19th, 1742.

ANTTO. DE ULIBANI. [Rubrica.]

In the town of Santa Fe, on the 20th of August, 1742, I, the lieutenant-colonel, governor, and captain-general of this kingdom of New Mexico, Don Garpas Domingo de Mendoza, ought to command and did command, in view of the report of Captain Antonio de Ulibani, alcalde mayor of said town, to place the petitioner in this petition in possession of the land that he asks for, so that in the name of his majesty he may possess
344 and cultivate the same, thus I provided, ordered, and signed with those of my attendants with whom I act, as customary on account of the actual conditions of this realm. It is valid.

DON GARPAR DOMINGO DE MENDOZA. [Rubrica.]

JOSEPH DE TERRUS,
JUA. PHE. DE RIVERA.

In the town of Santa Fe, on the 20th day of the month of August, 1742, I, the captain, Antto. de Ulibani, alcalde mayor of this town, in obedience to the order of his excellency the Colonel Don Garpar Domingo de Mendoza, governor and captain-general of this kingdom, I, the said alcalde mayor, went upon the lands that this party states, and I took him by the hand and walked with him over said lands. He plucked grass, cast stones, shouted, saying "Long live the King my Lord Don Phillipe the Fifth, whom may God preserve," the witnesses to the royal possession being Tomas de Lena and Cayetano Lovato. Thus I acted with the witnesses of my attendance for the lack of public or royal notary, for there are none in this kingdom, upon the actual paper, for there is none of the seal in these regions, to which I certify.

ANTTO. DE ULIBANI, [Rubrica.]
Judge Commissioner.

GREGORIO GARDUNO.

345 Grant to Luis de Armenta. Year of 1732. Reported number 68, in files of the office of the U. S. surveyor-general, Santa Fe, New Mexico. Transcript and translation.

346 Reported No. 68.

S. G. Y CAPN. GL.:

Nicolas Armenta, teniente del pueblo de Nra. de los Angeles de Pecos, paresco ante V. Sa., por medio de este escripto en toda forma de dro. qe. aiga lugar y el mio combenga, y digo, que por cuanto allarse en ese superior archivo de govierno una merced de tierras de mi difunto padre qe. de Dios gose, yamado Luis de Armenta, y dicha posesion fue administrada por el Capn. Dn. Antto. de Urribali, siendo alcalde mayor de esta villa de Sta. Fee, en tiempo que gobernaba este reino Dn. Gerbacio Crussate y

Gongora, asi suplico a V. S. si lo allare por de justicia se me administre lo que yevo pedido, por lo que a V. Sa. pido y suplico muy rendidamente sea muy servido de mandar y haser como yevo pedido que en aserlo asi resebire mersed con justicia que pido y juro en debida forma no ser de malicia este mi escripto en lo nesesario, &c. Entre renglones tachado no bale.

NICOLAS ARMENTA. [Rubrica.]

VILLA DE SANTA FEE, *Mayo* 26 *de* 1783.

Por presentado y en atencion a lo que sublica el impetrate. devia de mandar y mando se le de testimonio que solicita que es del tenor siquiente: Sor. Govor. y Capn. Gral. Luis de Armenta, vesino de esta villa de Sta. Fee, paresco ante V. S., en la mijor forma que el dro. me permite, y digo que en conformidad de Rs. ordenanzas de su Magestad registro un pedaso de tierras heriasas que al parecer cabran como dos fanegas de sembradura el que estan a mano isquierda del camino que va para el pueblo de Pecos y linda con el alto de la arroyo de los Chamisos por ser realengo y estar metidas las dhas. tierras quasi en el monte, por cuya razon hasta agora no se ha conocido tengan dueno ni haverlas registrado persona alguna que puedan tener derecho: y por que me hallo con las obligaciones de mujer e hijos y no tener tierras de sembradura para mantenerlos se ha de servir la gran justificacion de V. S. de haserme merced de las dhas. tierras en nombre de su Magd. y fecha que el alcalde mayor de esta villa me
347 de la posesion de el y personal en nombre du su Magd. Por todo lo cual a V. S. pido y supco. sea muy servido de hacerme merced de las tierras segun y como las pido que es de justicia, y juro en forma y en lo nesesario.

LUIS DE ARMENTA.

En la villa de Sta. Fee, en onse dias del mes de Septiembre de mil setecientos treinta y dos anos vista, por mi, el Coronel Dn. Gervacio Cruzat y Gongora, governador y capn. gral. de este reino de la Nueva Mexico, y sus provincia' la hube por presentada en lo que ha lugar en dro., en atencion a lo que pide el suplicante le hago merced en nombre de su Magd. de una fanega de sembradura en el paraje que expresa sin perjuicio de tercero que mejor dro. tenga y sea puesto en posesion de la tierra que comprehende la dicha fanega de sembradura por el Capitan Antonio de Uribarri, alcalde mayor de esta dha. villa, quien pondra los linderos que le competen en conformidad de lo concedido. Asi lo provey, mande y firme con los testigos de mi asistencia a falta de escribano publico y Rl. que no lo hay en este reyno, y va en el presente papel comun por no correr en estas partes del sellado.

DN. GERVASIO CRUZAT Y GONGORA.

GASPAR BRITTON,
JUAN ANTONIO DE UNANUE,
Testigos de Asistencia.

En la villa de Sta. Fee, en diez y nueva dias del mes de Abril de mil setecientos treinta y tres anos, yo, el Capitan Antonio de Uribarri, alcalde mayor y capn. aguerra de esta dha. villa, en cumplimiento de lo decretado por el Sor. Coronel Dn. Gervacio Cruzat y Gongora, govor. y capn. gral. de este reino, pase a las tierras que en su escripto pidio Luis de Armenta,

y estando en ella le di posesion real con todas las ceremonias acostumbradas, senalandole por linderos de la fanega de mais de sembradura por el camino que va a los Pecos que sale de en casa de Sebastian de Bargas con la loma de la primera cruz hasta otra cruz, que hase a el pajar otra lomita pequena y a su tamano por la parte en donde estan otras dos cruces; y para que conste, lo firme con los testigos de mi asistencia, a falta de escribano publico y real que no lo hay en este reino.

ANTONIO DE URIBARRI,
Juez Reseptor.

DIMAS GIRON,
PHELIPE TAMARIS,
Testigos.

348 Y a efecto de lo que pueda convenir certifico ser el mismo que se halla en el libro de Govno. que cita la que autorizo y firmo yo, el infraescrito coronel de caballeria, governador politico y militar de esta prov., con los testigos de mi asistencia, a falta de escribano publico ni Rl., por no haverlo en toda esta govno., de que doy fee.

JUAN BAUTISTA DE ANZA. [Rubrica.]

Asa.: VITZE TRONCOSO.
Asa.: FRANCO. PEREZ SERRANO.

349 Reported number 68.

To His Excellency the GOVERNOR AND CAPTAIN-GENERAL:

I, Nicolas Armenta, lieutenant of the pueblo of Our Lady of Angels of Pecos, before your excellency, through the medium of this petition, in the best form allowed me by law, appear and say that whereas there exists in this superior archive of the government a grant of land of my deceased father (may he rest in peace), his name being Luis de Armenta, and the said possession was given by Captain Dn. Antto. de Urribali, while he was alcalde mayor of this town of Santa Fe, in the time when the governor of this kingdom was Dn. Gerbacio Crussati y Gongora, I therefore ask your excellency, if you should find it just, to have done to me what I have petitioned, for which reason I ask and pray your excellency most submissively to be pleased command and do as I have petitioned; for in doing so I shall receive grace with justice, which I ask; and I swear in due form that this my petition is not done in bad faith in the necessary, etc.

Between lines crossed out not valid.

NICOLAS ARMENTA. [Rubrica.]

Town of Santa Fe, May 26th, 1783, received as presented; and in view of what the petitioner asks, I should and do command that the testimonio which he prays for shall be given to him, which is in the following tenor: "To his excellency the governor and captain-general: I, Luis de Armenta, resident of this town of Santa Fe, appear before your excellency in the best form allowed me by law and say that in conformity with the royal ordinances of his majesty I register a piece of unoccupied lands, in which probably there can be ploughed two fanegas, lying on the left hand of the road leading to the pueblo of Pecos, and it adjoins with the *alto* of the arroyo de los Chamisos, because it is royal domain and the said

lands lying almost in the woods (monte), for which reason until the present day it is not known that they have had any owner nor that any
350 person who might have a right has registered them. And because I am under the obligations of wife and children, and I have no farming lands for their maintenance, may the great justification of your excellency be pleased to make me a grant of the said lands in the name of his majesty and command that the alcalde mayor of this town give me the possession of the same and the personal in the name of his majesty. For all of which I ask and pray of your excellency to be pleased to grant me the said lands accordingly and as I have asked for them, which is just; and I swear in form and in the necessary.

"LUIS DE ARMENTA."

In the town of Santa Fe, on the 11th day of the month of September, 1732, it having been seen by me, the Colonel Don Gerbacio Cruzat y Gongora, governor and captain-general of this kingdom of New Mexico and its provinces, I received it as presented for what it may be worth in law. In view of what the petitioner asks, I made him a grant in the name of his majesty of one fanega for farming at the place he cites, without prejudice to third party who may have better claim, and that he be placed in possession in the land embraced by the said fanega of farming land by Captain Antonio de Ulibarri, alcalde mayor of the said town, who will place the boundaries that belong to it according to what has been granted. Thus I provided, ordered, and signed with the witnesses of my attendance for the lack of public or royal notary, for there are none in this kingdom, and it is done upon the present common paper, because there is none of the seal in these regions.

DN. GARVACIO CRUZAT Y GONGORA.

Att. witt.:
GASPAR BRITTON.
JUAN ANTONIO DE UNANUE.

In the town of Santa Fe, on the 19th day of the month of April, 1733, I, the Captain Antonio de Ulibarri, alcalde mayor and war captain of this said town, in obedience to what has been decreed by his excellency the Colonel Don Gervacia Cruzat y Gongora and captain-general of this kingdom, I went upon the lands asked for in his petition by Luis
351 de Armenta, and being upon it I gave him the royal possession, with all the customary formalities, fixing to him for boundaries of the fanega for planting corn by the road that leads to Pecos, which (road) starts from the house of Sebastian de Bargas, with the hill (lomas) the first cross to another cross that it makes on crossing another small hill (lomita), and to its size on the east, where there are two other crosses; and that it may so appear, I signed it with my attending witnesses for the lack of public or royal notary, for there are none in this kingdom.

ANTONIA DE ULIBARRI,
Judge Commissioner.

Witt.:
DIMAS GIRON.
PHELIPE TAMARIS.

And for the effect that may be proper, I certify that it is the same to be found in the book of government which he cites, which I authorize and

sign, I, the undersigned colonel of cavalry, political and military governor of this province, with the witnesses of my attendance for the lack of public or royal notary, for there are none in all this government; to which I certify.

JUAN BAUTISTA DE ANZA. [Rubrica.]

Att. witt.:
VIZTE. TRONCOSO.
FRANCO. PEREZ SERRANO.

352 Archive 180. Grant by Governor and Captain General Juan Domingo de Mendoza on August 8, 1742. Transcript and translation.

353 Archive No. 180.

SOR. GOVERNOR. Y CAPPN. GENL.: Gregorio Crespin, vesino de la villa de Santa Fee, puesto a los pies de la grandeza de V. SS., en toda forma que aya lugar qual me convenga, y digo que por cuanto me beo cargado de obligaciones y no tener un pedaso de tierra para poder sembrar para mantener dhas. mis obligaciones, he tenido notisia de un pedaso de tierras, el cual esta de la otra vanda de el rio que vienen haser sobras del Capn. Juan Garzia de la Rribas, vesino que fue de esta dha. villa, y sus linderos son los siguientes: Por el oriente lindan con tierras de dho. Capn. Juan Garzia, por el poniente con tierras de Juan Phe. Rodringues, por el norte de el Capn. Sebastian de Vargas, y por el sur con el camino de el Alamo, las cuales pido a la grandesa de V. S. S. se me den por merzed *em* nombre de su Magd. (que Dios gue.) y de consedermelas se me de la posesion Rl. que rresevire merzed, y juro en devida forma no ser de malisia este escripto, &a.

GREGORIO CRESPIN. [Rubrica.]

Auto.

En la villa de Sta. Fe, en ocho dias del mes de Agosto del ano de mil settesos. cuarenta y dos anos, yo el Thete. Coronel Dn. Gaspar Domo. de Mendosa, goveror. y cappn. generl. de este reino de Nuevo Mexico, en birtud del prete. escrito, devia mandar y mande al alcalde mr. de esta villa Anttonio de Ulibarri, pasase a el sitio de las tierras que pide el suppte. y rreconosidas le de en nombre del Rey Nro. Senor (Dios le ge.) la merzed que pide pa., si sus hijos y susesores a mayor dro., hobservando en su data las zircunstancias y rrequisitos nesesarios segun estilo y en particular la de sin perjucio de terseros, asi lo probe y mande y firme con los testigos de mi asistena., por la falta de escrino. real y puco., que no le hay, y en el prete. papel por no correr el sellado en dho. reyno, de que doy fee, &a.

DN. GASPAR DOMINGO DE MENDOZA. [Rubrica.]
JOSEPH DE TERRUS.
JOSEPH TRUXILLO.

354 En la villa de Santa Fee, en ocho dias del mes de Agosto del ano de mil setesientos i quarenta y dos, yo, el Capn. Anttonio de Hulibarri, alcalde mayor y capn. a guerra desta villa, paresio ante mi Gregorio Crespin, vesino desta referida villa, y me mostro una merzed de tierras que el Senor Tente. Coronel D. Gaspar Domingo de Mendosa le abia consedido,

y en su bista pase yo, dho. alcalde mayor, a las tierras que en esta mersed sita, y estando en ellas y reconosidas, coxi de la mano a el dho. Gregorio Crespin y lo pasie por ellas; aranco sacate, tiro piedras, dio boses disiendo viva el Rey de Espana, mi Senor D. Phelipe Quinto (que Dios guarde muchos anos), senalandole los linderos que son por la parte del *h*oriente con tierras del Capn. Miguel Garsia de las Rivas, por la parte del poniente asta llegar a las tierras de Phelipe Pacheco, por la parte del norte el camino real de los carros que sale de esta villa para el Alamo, por la parte del sur una sequia antigua que es el lindero de Juan de Arguello; y se allaron a dicha posesion Phelipe Tafoia, Juan Antto. de Apodaca; Juan Arguello, Juan Antto. de Archuleta, a quienes les pregunte si sabian o tenian notisia tubiera derecho a estas tierras, respondieron todos qe. ni lo sabian ni tenian notisia tubiera alguna otra persona derecho a ellas, mas que las abian tenido por del Capn. Juan Garsia de las Rivas; ansi lo declaran anti mi dho. alcalde maior, autuando por resetoria a falta de escrivano publico y real, que no lo hay en este reyno; en el presente papel por no corer de ningun sello en estas partes, de que doi fee.

ANTTO. DE HULIBARRI, [Rubrica.]
Juez Reseptor.

To.: PHELIPE TAFOLLA.
Tto.: JUN. MANUEL CHIRINOS.

355 Archive No. 180. To his excellency the governor and captain-general: I, Gregorio Crespin, inhabitant of the town of Santa Fe, placed at the feet of the greatness of your excellency in the best form that there may be allowed to me and say: That because I am loaded with obligations and that I do not have a piece of land for ploughing to discharge my said obligations I have known of a piece of land which is situate on the other side of the river which are surplus lands of Captain Juan Garcia de las Rivas, and its boundaries are the following: On the east they adjoin with the lands of the said Captain Juan Garcia, on the west with lands of Juan Phe. Rodrigues, on the north of Captain Sebastian de Vargas, and on the south with the alamo road (camino del alamo), which lands I ask the greatness of your excellency to give them to me as a grant in the name of his majesty (whom may God preserve) and if you will grant them to me that royal possession be given to me, for I will receive grace, and I swear in due form that this petition is not done in bad faith, &c.

GREGORIO CRESPIN. [Rubrica.]

Order.

In the town of Santa Fe, on the 8th day of the month of August, 1742, I, the Lieutenant-Colonel Don Gaspar Domo. de Mendosa, governor and captain-general of this kingdom of New Mexico, in view of the present petition I should and did command the alcalde mayor of this town, Antonio de Ulibarri, to go upon the tract of the lands asked for by the petitioner and after examining them to give him in the name of his majesty (God preserve him) the grant he asks for himself, his children, and successors by better right, observing at its delivery the circumstances and necessary requirements such as are accustomed, and especially the one that no harm shall result to third party; thus I provided and ordered and

signed with witnesses of my attendance for the lack of public or royal notary, there are none, and upon the present paper there is none of the seal in said kingdom, to which I certify, &c.

356 DON GASPAR DOMINGO MENDOSA. [Rubrica.]

JOSEPH DE TERRUS.
JOSEPH TRUXILLO.

In the town of Santa Fe, on the 8th day of the month of August, 1742, I, the Captain Antonio de Hulibarri, alcalde mayor and war captain of this town, before me appeared Gregorio Crespin, inhabitant of the said town, and showed me a grant of land made to him by the Lieutenant-Colonel Don Gaspar Domingo Mendosa, and having seen it, I, the said alcalde mayor, went upon the lands stated in this grant, and being upon them and having examined them, I took the said Gregorio Crespin by the hand and led him over the ground. He plucked grass, cast stones, shouted, saying: "Long live the King of Spain, my lord Don *Don* Phillip the Vth (whom may God preserve), fixing for him the boundaries, which are: On the east with lands of Captain Miguel Garzia de las Rivas, on the west reaching up to the lands of Phelipe Pacheco, on the north the highway for wagons that goes from this town to the alamo (camino real de los carros que sale de esta villa para el alamo), on the south side an ancient ditch which forms the boundary of Juan Arguello; and at said act of possession were present Phelipe Tafoia, Juan Antonio de Apodaca, Juan Arguello, Juan Antto de Archuleta, whom I asked if they knew or have noticed whether any one had a right to these lands, and all answered that they did not know or have notice that any other person had a right to the same, but they had always believed it to belong to Captain Juan Garzia de las Rivas; thus they stated before me the said alcalde mayor, acting as judge commissioner, for the lack of public or royal notary, for there are none in this kingdom; upon the present kind of paper, for there is none of the seal in these regions, to which I certify.

ANTTO DE HULIBARRI, [Rubrica.]
Judge Commissioner.

Witt.:
PHELIPE TAFOLLA.
JUN. MANUEL CHIRINOS.

357 Archive 24. Grant by Governor and Captain-General Don Juan Domingo de Mendoza to Juan Jose de Archuleta on August 20, 1742. Transcript and translation.

358 Archive No. 24. Sor. ttemientte coronel de los reales ejercitos, governador y capn. general deste reyno y provinsias de la Nueva Mexico, &a.:

Joañ Joseph de Archule'a, besino de la villa de Santa Fee, paresco *h*ante la grandesa de Vssa. en la mas bastante via y forma qe. aylla lugar en derecho y ha mio conbenga, y digo, senor, que registro hun pedaso de tierra que esta llermo y despoblado que estta abajo de esta capittal villa *h*un cu*r*ato de legua, el cual son sus linderos por la parte del oriente tierras de Cattalina Maese, y por la parte del poniente las tierras del Capn. Diego Arias, y por la parte del norte el camino real, y por la del sur el camino de los carros, las cuales tierras suplico a la grandesa del catolico pecho de

Vsa. me las de en nombre del Rey Nro. Sor. (qe. Dios gue. ms. as.) para mi y mis dos hijos qe. se allen ya mansipados, y por ttantto a Vsa. pedimos y suplicamos con las beras de *m*uestro mallor rendimiento sea muy servido de consedernos, lo qe. pedimos qe. resebiremos bien y merse con justicia qe. en Vsa. *h*inploro, pues juro en debia forma de derecho todo lo necesario, &a.

JOAN JOSEPH ARCHULETA. [Rubrica.]

SANTA FE, *Agosto* 17 *de* 1742.

Ynforme el alcalde mr. que lugar tiene este pedimento sobre estas tierras.

MENDOSA.

En dies y nueve dias del mes de Agosto de mil setecientos y quarenta y dos as., yo, el Alcalde Maior Antto. de Uribarri, digo que en este pedimento no ai quien lo contradiga por ser tierras del rey mi amo, puede Vsa. disponer a su boluntad.

ANTTO. DE HULIBARI. [Rubrica.]

En la villa de Sta. Fe, en veynte dias del mes de Agosto de este ano de mil setezos. cuarenta y dos, yo, el Thte. Coronel Dn. Gaspar Domo. de Mendosa, governador y cappn. genl. de este reino del Nuevo
359 Mexco., bisto el informe del Cappn. Antto. de Ulibarri, alcae. mayr. de esta dha. billa, devia mandar y mande se le de al suppte. en nome de S. M. (Dios le ge.) la mersed que sita este escrito para que la aye por suya cultibe y beneficie; asi lo probe, y mande, y firme con los de mi asistencia, con la actuacion acostumbrada y se practica en dho. reyno, de que doy fee. Bale.

DN. GASPAR DOMO. DE MENDOSA. [Rubrica.]

JOSEPH DE TERRUS.
JUN. PHE. DE RIVERA.

Posesion.

Yo, el Capn. Antto. de Hulibari, alcalde mayor de esta villa de Santa Fee, digo, que pase a las tierras que este escrito resa, y estando en ellas coxi de la mano a Juan Joseph de Archuleta y lo pasie por ellas; aranco sacate, tiro piedras, dio voses, disiendo viva el Rey mi senor (qe. Ds. ge.), senalandole los linderos que son desde el lindero de Catalina Maese que es el oriente, ai dosientas y sesenta varas asta el poniente, y por el norte el camino real que ba para la villa y por el sur el camino de los carros; y para que coste asi lo autue, con los testigos de mi asistencia, a falta de escrivano po. y rl., que no lo hay en este reyno; en el presente papel, por no corer de *m*ingun sello en estas partes, de que doy fee.

ANTTO. DE HULIBARRI, [Rubrica.]
Juez Reseptor.

GREGORIO GARDUNO.

360 Archive No. 24. To his excellency the lieutenant-colonel of the royal armies, governor, and captain-general of this kingdom and provinces of New Mexico, &c.:

I, Juan Joseph de Archuleta, inhabitant of the town of Santa Fe, appear before the greatness of your excellency in the best form and manner allowed

me by law, and say, sir, that I registered a piece of land which is vacant and unsettled, lying one-fourth of a league below this capital town, the boundaries thereof being on the east the lands of Catalina Maese, and on the west lands of Captain Diego Aias, and on the north the highway (camino rael), and on the south the wagon road (camino de los carros), which lands I pray the greatness of the Catholic breast of your excellency to give them to me in the name of his majesty (whom may God preserve many years) for myself and my two sons, who are already emancipated (from my paternal authority), and we therefore pray and ask your excellency, with the earnestness of our greatest submission, to be pleased to grant to us what we ask, for we shall receive benefit and grace with justice, which I implore in your excellency, for I swear in due form of law all the necessary, &c.

JOAN JOSEPH ARCHULETA. [Rubrica.]

Santa Fe, August 17, 1742, let the alcalde mayor report upon the minutes of this petition upon said lands.

MENDOSA.

On the 19th day of the month of August, 1742, I, the alcalde mayor, Antto de Ulibarri, say that in this petition there is no one to object, because they are lands of the King, my master; your excellency may proceed according to your will.

ANTTO DE HULIBARI. [Rubrica.]

In the town of Santa Fe, on the 20th day of the month of August of this year, 1742, I, the lieutenant-colonel, Don Gaspar Domingo de Mendosa, governor and captain-general of this kingdom of New Mexico, having seen the report of Captain Antto de Ulibarri, alcalde mayor
361 of this said town, ought to and did command that the petitioner be given the grant in the name of his majesty (whom may God preserve), as stated in this petition, that he may have it as his own, cultivate and improve it; thus I provided, ordered, and signed with those of my atendance with the proceeding customary and in use in *in* said kingdom, to which I certify, it is valid.

DN. GASPAR DE MENDOSA. [Rubrica.]
JOSEPH DE TERRUS.
JUN. PHE. DE RIVERI.

Possession.

I, the Captain Antto de Ulibarri, alcalde mayor of this town of Santa Fe, say that I went upon the lands referred to in this petition, and being upon them I took Juan Joseph Archuleta by the hand and led him over the same, he plucked grass, threw stones, shouted, saying: "Long live the King my Lord (may God preserve him)," fixing as the boundaries which are from the boundary line of Catalina Maese, which is the east, there are 260 varas up to the west, and on the north the highway (camino rael), leading to the town, and on the south the wagon road (camino de los carros), and that it may so appear I this done, with two witnesses of my attend-

ance, for the lack of public or royal notary, for there are none in this kingdom, upon the present paper, for there is none of the seal in these regions, to which I certify.

ANTTO DE HULIBARRI, [Rubrica.]
Judge Commissioner.

GREGORIO GARDUÑO.

362 Decree of Governor and Captain-General Don Juan Ignacio Flores Mogollon, July 21, 1713, requiring presentation and registration of grants, etc., in the Book of Cabildo, together with entries from the said book. Transcripts and translations.

363 En 21 de Jullio de 1713, la presto. el contenido ante el sor. govor.

Sor. Governor. y Capitn. Genl. Joseph Manuel Gilthomey, residente en este reyno de la nueba Mexico, y scribano nombrado de cauildo, paresco ante V. S. en la mejor forma q. en derecho lugar aya, y al mio combenga, y digo, q. como escribano q. soy nombrado actualmte. de dho. cauildo, auiendo reconosido el archibo y hecho ymbentario genl. de sus papeles, auer reconosido quando se executo el aserlo de orden y mandato de V. S., allarse en el muchos papeles, de testimonios y scripturas sin autorisar, y son los q. mas ymportan, y pueden causar ynquietudes, y discordias, y algunas mersedes de tierras de la misma calidad, por lo q. me presissa por mi oficio aser a V. S. representacion, pidiendo sea muy seruido de expedir su orden a los alcaldes mayores de las jurisdiciones de Spanoles deste reyno para q. todos los vezos del q. tienen mersedes de tierras, ventas, donaciones, y testamentos orixinales en su poder., los presenten en dho. archibo y saquen dellos testimonios, como esta mandado por ordenansas reales, para obiar confuciones, pleytos, y discordias y de perderse pueden ocasionarse como ay exemplar en los q. tenia orixinales el Capitn. Sebastian Martin de la hazienda y lauor q. oy pose, q. se perdieron y se allo presitado a sacar nueba mersed y tomar posecion teniendola, el q. venga a este reyno, juez visitador de archibos, y allarlo de la manera q. esta sin estos ynstrumentos, y aser a los escribanos alguna vejasion, por todo lo qual—

A V. S. pido y suplico con la venerasion deuida, sea muy seruido de espedir su orden para q. dhos. ynstrumentos orixinales parescan, y paren en dho. archibo y saquen testimonios dellos, y q. los dhos. alcaldes mayores no los entriegen los q. hizieren orixinales sino q. remitan a dho. archibo. Juro en forma de derecho, este mi escripto, no ser de malisia, sea reglandome a reales ordenansas y en lo nessesario, &a.

JOSEPH MAL. GILTHOMEY,
SSo. de Caudo.

364 *Autto.*

Y vista por mi, Dn. Juan Yganazio Florez Mogollon, govor. y capn. gral. de este reyno y prouinzias de la Nueva Mexico por S. M.; la ube por presentada y mando que todos los vezos. desta villa conparescan ante el ylle. caudo., justizia y reximto. de ella con los titulos y mrzds. de sus tierras, casas y ranchos; y los alcaldes maiores de las jurisdizes. de la villanueua de Sta. Cruz y Sn. Phelipe de Albuquerque y Real de mernalillo lo aran notorio a los vezos. de sus jurisdiziones, para que dentro

del termino de dos meses ocurran con sus titulos y merzedes ante dho. ylle. caudo. para que los reconosca y tome la razon de ellos para obuiar pleitos, y gastos y que dhos. alcaldes maiores, los ynstrumtos. que ante si octogaren, no los entreguen orijinales a las partes sino testimonios, remitiendo los orijinales a dho. ylle. caudo. pra. que spre. paren en el; con aperzeuimto. que se prozedera contra los yncursos a lo que hubiere lugar en derecho; y que este auto sirua de mandamto. en forma que ara notorio esta parte como ssno. de caudo. a los vezos. desta villa; y ara remision de el a los alcaldes mayores de las expressadas jurisdizes. para que cada vno en la suia lo aga leer y publicar, poniendo al pie de el razon de auerlo executado, y fho. que sea, lo remitiran a dho. archiuo, que es fecho en esta villa de Santa Fee de la Nueva Mexico en veinte y vn dias del mes de Jullio de mill setezos., y treze anos y lo firme ante mi secro. de gon. y grra.

Don JUAN YGNAZIO FLOREZ MOGOLLON. [Rubrica.]

Por mdo. del sor. govor. ante mi:

ROQUE DE PINTTO. [Rubrica.]
Secro. de Gon. y Grra.

Obedecimto.

Yo, Don Joseph Manuel Gilthomey, sso. de cauildo, en obedecimto. del orden de arriba ley, notifiqe. a todos los vezos. desta villa de Sta. Fee de verbo ad verbum, y remito este dho. orden a el Cappn. Jacinto Sanches, para qe. en su jurisdicion lo aga leer y publicar a su vezos., y hecho, lo remitira a las jurisdiciones de Sn. Felipe de Alburquerqe. y Real de Vernalillo para qe. alla se execute, y hecho qe. sea se remita a este archibo de caudo. para qe. en el conste, y asi lo firme en esta dha. villa de Sta. Fee en veinte y quatro de Julio de mill sietecientos y treze anos.

JOSEPH MAL. GILTHOMEY,
SSo. de Caudo.

En esta villa nua. de Ssta. Cruz, en treinta dias de el mes de Julio de este ano de mill cete*te*cientos y treze, yo, el Sargtto. Reformado Jacinto Sanches, alcalde mayor y cappn. a guerra de dha. villa, en cumplimiento y obedesimto. de el auto proueido por el S. Gouor. y Cappn. Genrl., y en virtud de la remission que el secretario de cauildo me haze, publique dho. auto a los vezinos de esta jurisdicion, y para q. conste, lo firme ante mi como juez rezeptor con dos testigos de mi asista., en dho. dia, vt supra.

Testo. de assa.:
MIGUEL THENORIO DE ALUA. [Rubrica.]
Tteso. de assa.:
MIGUEL DE QUINTANA [Rubrica.]

Antte mi como juez rezeptor de q. doy fee:
JASINTO SANCHES. [Rubrica.]

En esta villa de Sn. Phelipe de Alburquerque, en dies dias de el mes de Agosto de este presente ano de mill setesientos y trese, yo el Capn. Martin Hurtado, alcalde mayor y capn. a guerra de dicha juridision, en cum-

plimiento y obedesimiento de el avto arriua proveydo por el Sr. Govor.
y Capn. Genl., lo hize publicar, hauiendo concurrido a su publicasion
366 todos los vesinos de dha. juridission; y para que assi conste, lo firme
en dicho dia, mes y ano, con dos testigos de mi asistensia, que lo
fueron Antonio de Silua, y Manuel de Silua.

Testigo de assistensia:
ANTONIO DE SILUA. [Rubrica.]
Testigo de asistensia:
MANUEL DE SILBA. [Rubrica.]

Ante mi, como jues reseptor, de que doi fee:
MARTIN HURTADO. [Rubrica.]

367 Ano de 1713.

Libro de cavildo donde se asientan las juntas y demas cosas que se ofrezieren en servicio de S. M.

Govdr. de este Rno: El Senor Dn. Jun. Ygnacio Flores Mogollon, govor. y capn. gl. de este dicho rno. y castellano de sus fuerzas y presidos por S. M.

Libro del cavildo en que se toma razon de las mercedes de tierras y solares de casas, hechas por los senores gobernadores desde el Marquez de la Naba de Brazinas hasta el Senor Don Juan Ygnacio Flores Mogollon, que lo es actual de este reyno de la Nueba Mexico, por el Rey Nro. Senor, etta., ano de 1713.

Diego Marques de Ayala presento una merced de dos fanegas de sembradura de mays, y dos de trigo, con solar de casa y guerta, hecha por el Seonor Dn. Ju. Ygnacio Flores Mogollon, govor. y capitan genl. de este reino, en onze dias del mes de Marzo de mil setesientos y trese anos, y la posesion dada por el Capitan Ju. Garcia de las Rivas, alcalde ordinario; y dhas. tierras estan de la otra vanda del rio de esta villa; y sus linderos son por el oriente, tierras de Franco. Joseph de Casados; y por el poniente, con tierras del Capitan Antonio Montoya; y por el norte, con la asequia madre; y por el sur, con tierras de los menores de Beatriz Luzero, como consta de dicha merced.

Franco. Mrn. presento una mersed de una fanega de mays de sembradura que en las tierras realengas de la otra vanda del rio de esta villa le
hizo el castellano Don Pedro Rodrigues Cubero, en seis dias del
368 mes de Marzo de mil setesientos y tres anos, refrendada de Dn.
Pedro de Morele, secreto. de govierno, y sus linderos son por el oriente con el camino de los carros, y por el poniente con tierras realengas, y por el nte. con tierras de Felipe Pacheco, y por el sur, tierras de Maria de Tapia, y la posesion dada por Antonio de Ysasi, alguazil mayor, en diez dias del referido mes de Marzo, como de ella consta.

Maria Zapata, viuda del Capitan Diego de Medina, presento una merced hecha por el Genl. Dn. Diego de Vargas, que por estar muy mal tradada, su esposo, dicho Capitan Medina, pidio al castellano, Dn. Pedro Cubero, se la rebalidase y se le diese posesion de las tierras que espresa dha. merced, hecha a el Capitan Joseph Telles Jiron atento a sus meritos, de un pedaso de tierras en esta villa de Sta. Fee donde labro casa, y linda con tierras de Ju. Luzero de Godoy.

En 29 de Agosto de 1713, presento Diego Duran una mersed en medio pliego de papel, hecha en dho. dia por el Sr. D. Jun. Ygnacio Flores

Mogollon, govr. y cappn. genl. actual de este reino, refrendada de Roque de Pinto, sso. de govn, y gua., de un solar de casa y guerta, junto a la iglesia de esta villa; y en dho. dia el Ayute. Xptobal de Gongora, en virtud de comision de dho. sr., le metio en posesion de dho. solar de casa y guerta, con mas un pedazo de tierra de labor a orillas de sienega, cuyos linderos constan en dha. posesion a que me refiero y se le devolvio orixinal.

En siete dias del mes de Septiembre de mil setecientos y tres
369 anos, el Cappn. Ygnacio de Riobal hizo presentazon. de tres mercedes de tierras, la primera de la casa y tierras que tiene y posee en esta villa de Santa Fee, de que le hizo merced en nombre de su Magd. el castellano Dn. Pedro Rodrigues Cubero, en dies y seis dia del mes de Febrero de seiscientos y nobenta y ocho, autorizada de Domingo de la Barreda, secrettario de guerra, de cuya merced dio posesion el Capn. Diego Arias de Quiros, alguacil de dha. villa, en dos de Marzo de dho. ano, cuyos linderos constan en dha. mrd. y la devolvi orixinal.

En 17 de Octure. de 1713 as., Sebastian Gonzales presento ante el Genl. Jun. Paez Hurtado, alcalde ordinario desta villa de Sta. Fee, una mersed que en 18 de Heno. de '704 le hizo en nombre de su Magd. el Marqs. de la Nava de Brazinas, de un pedaso de tierras, en que cabra dos fans. de trigo de sembradura, en el rio ariba desta villa, y lindan con las tierras del combto., y la possecion que en 20 de Mayo de dho. ano le dio Anto. de Aguilera y Sasi, autorizada de Xptobal Gongora, s. so. de cado.

En catorze de Dig're. de 1713 as., Diego Luzero hizo presentacion ante mi, el Genl. Jun. Paez Hurtado, de una me'sed de tierras. qe. en 30 dias del mes de Jullio de 1697 le hizo el castellan Don Pedro Rodrigues Cubero, en esta villa de Santa Fee, qe. tendra como media farra de sembradura de maez y dos de trigo, y la posesion que en diez de Jullio de '706 le dio el alguazil, Mar. Anto. de Ysasi a Anto. Luzero de Godoy, su padre, a quien se le hizo dha. mrd. autorizada de Xptobal de Gongora, sso. de cavdo., que le devoloi orixinal.

370 Todas las mercedes que constan en este libro de que se halla tomada razon, an presentado ante mi, el Jenl. Jun. Paez Hurtado, alcalde ordinario de esta villa de Santa Fee, donde es fho. en beinte y ocho de Diciembre de mil setesientos y trese, y lo firme.

JUN. PAEZ. HURTADO. [Rubrica.]

371 On the 21st of July, 1713, the party stated therein presented it before the governor.

SIR GOVERNOR AND CAPTAIN-GENERAL: I, Joseph Manuel Grethomey, resident in this kingdom of New Mexico, and appointed clerk of the cabildo, appear before your excellency in the best form allowed to me by law, and state that being as I am the actual appointed clerk of said cabildo, and having examined the archive and having made a general inventory of the papers contained therein, and finding that when that was done by order of your excellency, many papers, such as testimonios and deeds, were found not *ot* be duly authorized, and they are those which are of greatest importance and may cause uneasiness and dissensions, and various grants of land of the same character, for which reason my position makes it incumbent upon me to represent this to your excellency, asking you to be pleased to order the alcaldes mayor of the jurisdictions of Spaniards in this kingdom, so that all those inhabitants of the same who have in

their possession original grants of lands, sales, donations, and testaments shall present them at said archive and take certified copies of the same (testimonios), as is commanded by royal orders, so as to avoid confusions, lawsuits, and dissensions, things which, if the papers are lost, may be occasioned—as, for example, in the loss of the original papers held by Captain Sebastian Martin for the hacienda and farm that he owns at present date, such papers being lost, and he was obliged to get a new grant and possession of the same; that the judge inspector of archives who may come to this kingdom, and if he finds it in the present condition without these instruments, and to cause some vexation to the clerks, for all of which I ask and beg your excellency with due submission to be pleased to issue the order, so that said original papers may be presented and deposited in said archive, and that they may take certified copies of the same, and that said alcaldes mayor may not deliver to them any original papers made by them, but send them to said archive. I swear in form of law
372 that this my petition is not done in bad faith, conforming myself to the royal ordinances and in the necessary, etc.

JOSEPH MAL. GILTHOMEY.
Sec. of Cabildo.

Order.

And it having been seen by me, Do. Juan Ygnazio Florez Mogollon, governor and captain-general of this kingdom of provinces of New Mexico, for his majesty, I receive it and I command that all the inhabitants of this town appear before the illustrious cabildo justice and aldermen of the same with the titles and grants to their houses and ranches; and the alcaldes mayor of the jurisdictions of the new town of San Cruz and San Felipe de Albuquerque and the real of Bernalillo shall make it known to the inhabitants of their jurisdictions in order that within the space of two months they may appear with their titles and grants before the said illustrious cabildo in order that it may see them and make a record (tome la razon) of them in order to avoid litigations and expenses, and that said alcaldes mayor shall not deliver to the parties documents in the original executed before them, but shall give them only testimonios, sending the originals to said illustrious cabildo in order that they may be there kept with the warning that those who do not do so shall be proceeded against according to law; and that this order may be as a command in such form that this party, as secretary of cabildo, shall make known to the inhabitants thereof, and shall send the same to the alcaldes mayor of the said jurisdiction in order that each one of them in their respective ones shall cause it to be read and published, endorsing at the foot thereof the statement (razon) that they have executed, and when that is done they shall send it back to said archive. Done in the town of Santa Fe of New Mexico on the 21st day of the month of July, 1713, and I signed it in the presence of my secretary of government and war.

Don JUAN YGNAZIO FLORES MOGOLLON. [Rubrica.]

By order of his excellency before me:

ROQUE DE PINTTO, [Rubrica.]
Sec. of Gov. and War.

373 *Compliance.*

I, Don Jose Manuel de Gilthomey, secretary of cabildo, in compliance with the foregoing order, made it known to all the inhabitants of this town of Santa Fe (de verbo ad verbum), and I send this order to Captain Jacinto Sanches, in order that he may cause to *to* be read and published in his jurisdiction, and, when that is done, he shall send it to the jurisdictions of San Felipe de Albuquerque and real of Bernalillo, in order that it may be there executed, and, when that is done, that it be sent back to this archive of cabildo, in order that it may there appear, and thus I signed at this town of Santa Fe on the 24th day of July, 1713.

JOSEPH MAL. GILTHOMEY,
Secretary of Cabildo.

At this town of Santa Cruz, on the 30th day of the month of July, of this year 1713, I, the retired sergeant, Jacinto Sanchez, alcalde mayor and war captain of said town, complying with and obeying the order made by his excellency the governor and captain-general, and by virtue of the remittance thereof made to me by the secretary of cabildo, I published said order to the inhabitants of this jurisdiction, and that it may so appear I signed it before myself as judge commissioner with two attending witnesses on said day as above.

Attending witnesses:

MIGUEL DE QUINTANA. [Rubrica.]
MIGUEL THENORIO DE ALVA. [Rub'ica.]

Before me as judge commissioner, to which I certify.

JACINTO SANCHEZ. [Rubrica.]

In this town of San Felipe of Albuquerque, on the 10th day of the month of August, 1713, I, the captain, Martin Hurtado, alcalde mayor and war captain of said jurisdiction, complying and obeying the
374 order above made by his excellency the governor and captain general, caused it to be published, all the inhabitants of said jurisdiction having come together to hear it published, and that it may so appear I signed it on said day, month, and year, and with two witnesses of my attendance—to wit, Antonio de Silva and Manuel de Silva.

Witt.:

ANTONIO DE SILVA. [Rubrica.]
MANUEL DE SILVA. [Rubrica.]

Before me as judge commissioner, to which I certify.

MARTIN HURTADO. [Rubrica.]

1713th year.

Book of cabildo, in which are entered the meetings and other matters that were done in the service of his majesty.

Governor of this kingdom, His Excellency Don Juan Ygnazio Florez Mogollon, governor and captain-general of this said kingdom, and commander of its forces and garrisons for his majesty.

Book of cabildo, in which record is made (se toma razon) of the grants of lands and house lots made by their excellencies the governors from the time of the Marquis de la Nava de Brazinos to His Excellency Don

Ygnazio Florez Mogollon, who is the actual incumbent of this kingdom of New Mexico for the King our Lord, etc. Year 1713.

Diego Marques de Ayala produced one grant of two fanegas for planting corn and two for planting wheat, with lot for a house and orchard, made by His Excellency Don Juan Ygnazio Florez Mogollon, governor and captain-general of this kingdom, on the 11th day of the month of March, 1713, and the possession was given by Captain Juan Garcia
375 de Las Ribas, ordinary alcalde, and said lands are situated on the other side of the river of this town, and their boundaries are on the east lands of Joseph Casados, and on the west lands of Captain Antonio Montoya, and on the north with the main ditch (acequia madre), and on the south with lands of the miners of Beatriz Lusero, as it appears from said grant.

Francisco Mrn. produced one grant of one fanega for planting corn, which was made to him in the royal lands on the other side of the river of this town by the commander of the castle, Don Pedro Rodriguez Cubero, on the 6th day of March, 1703, countersigned by Don Pedro de Moreto, secretary of government, and its boundaries are on the east with the wagon road (camino de los carros), and on the west with royal lands, and on the north with lands of Felipe Pacheco, and on the south lands of Maria Tapia, and the possession was given by Antonio de Ysazi, high sheriff (alguacil mayor), on the 10th day of the said month of March, as it appears therefrom.

Maria Zapata, widow of Captain Diego de Medina, produced one grant made by General Don Diego de Vargas, which, on account of its being in a bad shape, her husband, Captain Medina, asked the commander of the castle, Don Pedro Cubero, to re-validate it to him, and that possession should be given to him of the lands stated in said grant made to Captain Joseph Telles Jiron, on account of his merits, of a piece of land in this town of Sant' Fe, where he erected a house, and it is bounded by lands of Ju. Luzero de Godoy.

On the 29th of August, 1713, Diego Duran produced one grant upon half a sheet of paper made on said day by His Excellency Juan Ygnazio Florez Mogollon, governor and captain general at present time in this kingdom, countersigned by Roque de Pinto, secretary of govern-
376 ment and way, for a house and garden lot near the church of this town, and on said day the adjutant, Cristobal de Gongora, by virtue of a commission of his said excellency, placed the said party in possession of the said house and garden, to which was added a piece of land for farming at the edge of the swamp (cienega), the boundaries appearing upon said possession to which I refer, and it was returned to him in the original.

On the 7th day of the month of September, 1703, the captain Ygnazio de Roibal produced three grants of land, the first one for the house and lands held and possessed by him in this town of Santa Fe, granted to him in the name of his majesty by the commander of the castle, Don Pedro Rodriguez Cubero, on the 16th day of the month of February, 1698, authorized (endorsed) by Domingo de la Barrada, secretary of war, in which grant the possession was given by Captain Diego Arias de Quiros, sheriff of said town, on the 2nd of March of said year, the boundaries being stated in said grant, and I return it in the original.

On the 17th of October, 1713, Sebastian Gonzalez produced before the general Juan Paez Hurtado, ordinary alcalde of this town of Santa Fe, one grant, which, on the 18th of January, 1704, was made to him in the name of his majesty by the Marquis de la Nava Brazinos, for a piece of land in which probably two fenegas of wheat may be planted above this town on the river, and they are bounded by lands of [illegible], and the possession was given to him on the 20th of May in said year by Anto. de Aguilera y Sasi, authorized (endorsed) by Cristobal Gongora, secretary of cabildo.

On the 14th day of December, 1713, Diego Lusero produced before me, General Juan Paez Hurtado, one grant of land, which, on the 30th
377 of the month of July, 1697, was made to him by the commander of the castle, Don Pedro Rodrigues Cubero, in this town of Santa Fe, which grant will contain probably one half fanega for planting corn and two for planting wheat, and the possession was given on the 10th day of July, '706, by the high sheriff, Antonio de Ysasi, to Antonio Lusero de Godoy, his father, to whom the said grant was made, authorized, (endorsed) by Cristobal de Gongora, secretary of cabildo, which I return to him in the original.

All the grants appearing in this book, of which records have been made (tomada razon), were presented before me, General Juan Paez Hurtado, ordinary alcalde of this town of Santa Fe, where it was done on the 28th day of December, 1713, and I signed it.

JUAN PAEZ HURTADO. [Rubrica.]

378 And be it further remembered that afterwards, to wit, on the 27th day of April, A. D. 1894, the same being the 17th day of the April term, A. D. 1894, the further following proceedings were had, to wit:

CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } No. 80.

The above-entitled cause having come up for argument, there appeared E. L. Bartlett, esq., C. H. Gildersleeve, esq., C. A. Spiess, esq., T. B. Catron and Eugene A. Fiske, esquires, of counsel for petitioners, James W. Vroom and James H. Purdy, appearing for and on behalf of the plaintiffs in cases numbers 117, 116, 72, 103, 105, 6, 142, 125, 120, 104, 102, 121, 119, 49, 191, 189, 187, 12. After full argument on both sides the cause was submitted and the same was taken under advisement by the court.

379 And be it further remembered that afterwards, to wit, on the said 21st day of April, A. D. 1894, the replication of the City of Santa Fe was filed in the said cause, which said replication is in the words and figures following, to wit:

380 In the United States Court of Private Land Claims, sitting in and for the Territory of New Mexico.

THE CITY OF SANTA FE
vs.
THE UNITED STATES ET AL. } No. 80.

Now comes the City of Santa Fe as repliant in the above-entitled cause, and for a reply to the answer filed herein by the above-named defendants,

Luis Rivera, Albino Jose Rodriguez, Juan de Dios Tapia, Kate McKenzie Irvin, M. J. Nagel, Rosario Cokins, Jacob Gold, Louise J. Purdy, Marcos Valdez, Juan Lucero, Refugia Aguilar, J. A. Romer, Juan de Archuleta, Jose M. Lobato, Esquipula Flores, Vicente Velarde, and Jose Antonio Rodriguez, says that it does and will aver and prove its said bill, to be true, certain, and sufficient in the law to be answered unto by the said defendants, and that the answer of the said defendants is uncertain, untrue, and insufficient to be replied unto by this repliant. Without this, that any other matter or thing whatsoever in the said answer contained ma'erial or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All of which matters and things is and will be ready to aver and approve as this honorable court shall direct, and humbly prays as by its said bill it has already prayed.

By C. H. GILDERSLEEVE,
EDWARD L. BARTLETT,
Its Solicitors.
C. A. SPIESS,
City Atty.

381 And be it further remembered that afterwards, to wit, on the 28th day of April, A. D. 1894, the same being the 18th day of the April term, A. D. 1894, the following proceedings were had in the said cause:

Decree.

In the United States Court of Private Land Claims, sitting in the Territory of New Mexico.

CITY OF SANTA FE
vs.
THE UNITED STATES. } No. 80.

This *cuase* having come on to be heard upon the pleadings and proofs taken in open court on behalf of the petitioner, as well as of all the defendants herein, full legal proof having been taken, both documentary and oral, and full argument being had thereon by counsel representing the petitioner and all the defendants herein, and after due deliberation thereon, the court finds, as a matter of law and fact, that La Villa Real de San Francisco de Santa Fe, or San Francisco de Asis de la Santa Fe, and popularly called from time immemorial La Villa de la Santa Fe, was in existence upon the present situs of the petitioner herein, a municipal corporation under the laws of Spain in the year A. D. 1693, and as such was entitled under the laws of Spain to four square Spanish leagues of land in a square body, measuring one Spanish league from the center of the plaza or public square of said villa to each of the four cardinal points of the compass. The finding and confirmation in this decree contained being based on the treaty of Guadalupe Hidalgo and the laws, usages, and customs of the Kingdom of Spain, and the provisions of Title V, VII,
382 XII, XIII of Book IV of the recopilacion de Leyes de las Reynos de la Indias, and their operation and constructions under the United States Government.

The court further finds that said municipal corporation has continued in existence with all of its rights as a Spanish villa town and municipal corporation through the Spanish and Mexican sovereignity down to the present time, and that the said petitioner, the city of Santa Fe, is the lawful and legal successor thereto, in all its legal and equitable rights and privileges as such a municipal corporation, including the right to four sq'are Spanish leagues of land, which the court hereby specifies and declares to be bounded and described, to wit:

Beginning at a point distant one Spanish league due north from the center of the plaza of the city of Santa Fe, and running thence one Spanish league due east to the northeast corner of said grant, thence two Spanish league' due south to the southeast corner of said grant, thence two Spanish leagues due west to the southwest corner of said grant, thence two Spanish leagues due north to the northwest corner of said grant, and thence one Spanish league due east to the said point of beginning.

It is therefore ordered, adjudged, and decreed by the court that the claim of said petitioners for four square Spanish leagues of land situated in the county of Santa Fe and the Territory of New Mexico, and bounded and described as above set forth, be, and the same is hereby, established and confirmed in manner following, to wit: All the lots within said four square leagues of land now held in severalty to the respective lot holders thereof holding said lots in privity with said Santa Fe, pueblo
383 grant, and all the residue of said four square leagues to the said city of Santa Fe in trust for the inhabitants thereof; there is reserved from the operation of this decree and from the effect of this confirmation all property of whatsoever nature or kind now appropriated, used, occupied, possessed, or owned by the United States for any purpose.

This decree of approval and confirmation shall not be so construed as to confer any right or title in the grantees to any gold, silver, or quicksilver mines, or the minerals of the same, within the exterior boundaries thereof.

And this decree of approval and confirmation shall not be so construed as to effect or conclude the private rights of persons as between themselves to any lands, rights, titles, or privileges within the exterior boundaries thereof; nor shall this decree of approval and confirmation be so construed as to effect the titled or rights to any lands heretofore disposed of by the United States, and it is so ordered.

(Signed) JOSEPH R. REED,
Chief Justice.

384 And be it further remembered that afterwards, to wit, on the 28th day of May, A. D. 1894, the opinion of the court, by Chief Justice Joseph R. Reed, was filed in the said cause in the office of said clerk, which said opinion is in words and figures following, to wit:

385 THE CITY OF SANTA FE,
v.
THE UNITED STATES.

REED, C. J.:

In this case a judgment will be entered confirming to the plaintiff four square leagues of land measuring from the center of the plaza. The city

of Santa Fe was established as early as 1693 and the occupation by the Spaniards continued until the independence of Mexico was established in 1821.

The ground upon which we base the judgment of confirmation is that under the Spanish laws and customs in force at the time, the establishment of the pueblo or city operated as an appropriation of four square leagues of land for the benefit of the city and its inhabitants. There is no claim that an express grant was made to the city, nor is it necessary that any such grant be shown, but the grant or appropriation of the land, by operation of the law. The doctrine upon which we base our judgment was recognized and affirmed by the Supreme Court in the cases of Brownsville, Texas, and San Francisco, Calif., and the supreme court of California, which has been called upon to deal with this question, has repeatedly affirmed the same doctrine.

The title to the outlying or common lands remained in the King of Spain, and the question of difficulty in this case arises out of the fact that subsequent to the establishment of the city the captain-general made a number of grants to individuals of lands lying within the four leagues. Indeed, it was asserted upon the trial that all of the lands included within the four leagues, even the plaza and the streets of the town, were covered by
386 such subsequent grants, and the evidence introduced tended very strongly to establish that claim, although claims for the confirmation of but a limited number of such grants have been filed in this court. The Supreme Court has often held that the power of the captain-general or governor of a Spanish province to make grants of lands in the name of the King would be presumed from the mere fact of the exercise of that power by the officer. If that presumption should be indulged in the present case it would result, of course, in the confirmation of such subsequent grants as have been made the subject of actions in this court for confirmation. The cases in which that doctrine has been held, however, were for the confirmation of grants made in pursuance of a settled policy of the Crown. The title and ownership of the lands were originally in the King. But the policy of the sovereign was to settle his subjects upon them, and in pursuance of that policy grants were made to individuals, associations of individuals, and committees.

Pueblos or towns were established either by direct action of the Government or by promoters or contractors, who undertook to settle not less than thirty families. When the establishment was made directly by the Government no express grant of lands was made but the appropriation of a quantity sufficient for the purpose of the town, by general custom or the operation of general law. The city of Santa Fe appears to have been established in that manner.

Under established regulations town lots and tracts of land were allotted to the inhabitants. Other tracts were set apart for public uses, such as plazas, pleasure grounds, and the like, while the outlying lands not thus appropriated were for the common use of the inhabitants for pasturage and the obtaining of fuel and timber, and under certain conditions por-
387 tions of them might be leased for the benefit of the town. The title to such outlying lands remained in the King, but they were held for the use of the town and its inhabitants. If the population of the town increased, additional allotments to individuals might be made, and

the whole amount might in time be appropriated in that way. That the King might, in the exercise of the absolute power which he possessed over the subject, have appropriated these lands to other uses than those of the town is doubtless true. But it is clear that the general policy was that they should be held for the uses designated, and that policy does not appear to have been materially changed or abandoned during the continuance of the Spanish jurisdiction in Mexico. The subsequent grants in question then were made in violation of a settled policy of the Crown, and for that reason no presumption of a power in the officer who assumed to make them can be indulged, from the mere fact that he assumed to exercise such power. For this reason we think the subsequent grants must be rejected, and it will be so ordered.

JOSEPH R. REED,
Chief Justice.

388 And be it further remembered that, to wit, on the 28th day of May, A. D. 1894, dissenting opinion by Mr. Justice Wm. W. Murray was filed in the said cause, in the office of said clerk, which said dissenting opinion is in words and figures following, to wit:

389 In the United States Court of Private Land Claims, sitting in the Territory of New Mexico.

THE CITY OF SANTA FE, PLAINTIFF,
vs.
THE UNITED STATES, DEFENDANT. } No. 80.

Mr. Justice Murray dissenting.

The city of Santa Fe claiming, as the successor of the ancient town formerly known as La Villa Real de San Francisco de Santa Fe, filed its petition in this court, asking for a confirmation to it of four square leagues of land, in trust for the use and benefit of all the inhabitants and occupants thereof. This cause was heard, together with a number of others, in which the petitioners pray for a confirmation of Spanish grants to them for land within the four square leagues claimed by the city. It was not claimed that a grant was, in fact, made to the pueblo for any quantity of land, or that four square leagues, or any other quantity, was ever surveyed or set apart to it; but counsel insists that on the settlement of a pueblo the title to four square leagues passed to it by operation of law and that all subsequent grants made by authority of the sovereign to private parties within the four leagues are null and void, and a majority of my brother judges so hold.

The rights of the petitioner must be determined by the law in
390 force at the date of the supposed grant. The cedula of King Phillip II, issued in the year 1511, provided for the settlement of new towns, or pueblos, but there is no mention of four leagues or any other specific quantity of land to be granted. The quantity to be granted was left entirely to the discretion of the governor or viceroy. (Hall's Mexican Law, pp. 17 and 18.) In the case of Juan Sandoval et al. vs. The United States, decided at the present term of this court, the grant for the purpose of establishing a pueblo was made by the governor to fifty-one persons, and the land granted was about 315,000 acres.

Now, if this law was in force when the ancient pueblo of Santa Fe was settled, the court might presume that a corporation existed, but I can not see how it would be possible to determine the quantity of land (if any) that such corporation would be entitled to.

It is alleged in the petition that the "pueblo was in existence prior to 1680, and that prior to that date said town or villa contained a population exceeding thirty-five families in number, and that there was not any city or village of Spaniards situated within five leagues of said town or villa." From the foregoing statements I infer that the organization of the ancient pueblo is claimed under ths provisions of the law of Spain in relation to the settlement of new towns and pueblos by contractors, who might undertake to settle not less than thirty families. This law provides that if the contractor complied with the law in such cases that there shall be granted to him four square leagues of land, &c. The land is granted to the contractor, and not to the town or pueblo. A town might be estab-
391 lished by a contractor with ten families, but in that event only one-third of four square leagues was to be granted.

The lands where thirty families were settled were divided as follows: "The tract or territory granted by agreement to the founder of a settlement shall be distributed in the following manner: They shall, in the first place, lay out what shall be necessary for the site of the town and sufficient liberties (exidas) and abundant pasture for the cattle to be owned by the inhabitants, and as much besides for that which shall belong to the town (propios). The balance of the tract shall be divided into four parts, one to be selected by the person obligated to form the settlement, and the remaining three parts to be divided in equal portions among the settlers. The lots shall be distributed among the settlers by lots, beginning with those adjoining the main square, and the remainder shall be reserved to us, to give as rewards to new settlers or otherwise, according to our will, and we command that a plan of the settlement be made out." (See White's Recop., 2 vol., p. 46.)

The law in relation to the settlement of pueblos by contractors, and the allotment of lands among the settlers and the towns is in 2d White, from page 44 to 47. There is no evidence in this cause tending to show that any allotments of land were ever made among the settlers by the town council or any authority, or that the town was settled by ten or thirty families, or by the Government.

Chief Justice Reed, speaking for a majority of the court in this
392 cause, said: "Pueblos or towns were established either by direct action of the Government or by promoters or contractors who undertook to settle not less than thirty families. When the establishment was made directly by the Government no express grant of land was made, but the appropriation of a quantity sufficient for the purpose of the towns was by general custom or by operation of general laws. The city of Santa Fe appears to have been established in that manner."

The law of Spain in force in relation to the settlement of new towns and pueblos by the Government in New Spain prior to 1789 left the question of the quantity of land to be granted wholely in the discretion of the governor or viceroy.

Nothing whatever is to be found in the law in regard to any town or pueblo so established being entitled to four square leagues or any other

quantity of land by operation of law. (White's Recop., vol. 2., pp. 47, 48, 49, 50, and 51.) So if the ancient pueblo of Santa Fe was established by the Government as early as 1693, as stated in the opinion of the court, I do not see on what ground the court could presume a grant to it by operation of law to any specific quantity of land. The authorities referred to by the court as sustaining the position assumed by it in relation to towns and pueblos being entitled to four square leagues of land when recognized by the Government have no sort of application to towns and pueblos established by the Government prior to 1789.

The Republic of Mexico adopted the laws of Spain in relation to towns and pueblos, and the rights of towns and pueblos established by Mexico have been adjudicated by the Supreme Court of the United States
393 in a number of cases growing out of the act of March 3, 1851, for the settlement of private land claims in California. In the case of Brownesville v. Cavazos (100 U. S., p. 138) Mr. Justice Field said: "Previous to the revolution which separated Texas from the Republic of Mexico Brownesville constituted a portion of Matamoras, which was recognized as a town in 1826 by a decree of the congress of Tamaulipas, one of the States of Mexico. By the laws of Mexico in force at that time pueblos or towns, when recognized as such by public authorities, became entitled for their use and benefit, and the use and benefit of their inhabitants, to certain lands embracing the site of such pueblos or towns and adjoining territory to the extent of four square leagues. This right was held by the cities and towns of Spain for a long period before her conquests in America, and was recognized in her laws and ordinances for the government of her colonies here." (Laws of the Indias, White's Recop., vol. 2, p. 44; Townsend vs. Greely, 5 Wall., p. 326; Gresar vs. McDowell, 6 Wall., p. 363.)

The law referred to by the learned judge on page 44 of White's Recop. provides for the settlement of pueblos and towns by contractors with not less than thirty heads of families, hereinbefore referred to, and does not apply to pueblos and towns established by the Government prior to the royal instruction of 1789. In the case of Townsend vs. Greely, supra, Mr. Justice Field delivered the unanimous opinion of the Supreme Court of the United States, and explains what is meant in the case of Brownesville vs. Cavazos by the laws of Mexico in force in 1826 which gave to pueblos and towns certain right to four square leagues of land. The learned judge said: "The royal instructions of 1789 for the establishment
394 of the town of Pitic, in the province of Sonora, were applicable to all new towns which should be established within the district under the commandant-general, and that included California." (It also included New Mexico and the State of Tamaulipas.) "They gave special directions for the establishment and government of the new pueblos, declared that there should be assigned to them four square leagues of land, and provided for the distribution of the building and farming lots to settlers, the laying out of pasture lands and lands from which a revenue was to be derived, and for the appropriation of the residue to the use of the inhabitants." These royal instructions did not attempt to confer any right to lands on pueblos or towns then in existence. But if the town of Santa Fe had a grant to the four square leagues claimed, the undisputed facts of this case show that all the land granted to other parties by the Spanish

Government within the limits of the four leagues should be excluded from the decree. As before stated, no allotments of lands were ever made to the settlers. The four leagues were never surveyed or set apart to the town. The legal title, with full power to dispose of the land, remained in the sovereign. (Townsend v. Greely, 5 Wall., 326–338; Alexander v. Rowlett, 13 Wall., 388; U. S. v. Pico, 5 Wall., 540; Hurt v. Burnett, 15 California, 530, 20 id., 480; Pueblo Case, 4 Sawyer, 566; Brownesville v. Gavazos, 100 U. S., 138; Grisar vs. McDowell, 6 Wall., 379; Hall's Mexican Law, sec. 122, p. 53.)

It was the policy of the Spanish Government to encourage the settlement of new towns and pueblos by giving to them, and the inhabitants thereof, certain rights and easements to large quantities of land outside of the small lots to be assigned to the settlers and to which they
395 obtained a fee simple title by four years' use and occupation. It must, however, have been well understood by the authorities of such towns and pueblos and the inhabitants thereof that the Government reserved the right to sell or otherwise dispose of such lands, except the small allotments to the inhabitants and the necessary ground for plaza, streets, corporation buildings, &c. In 1808 a general law was promulgated, which provided that all the unoccupied town or pueblo land should either be sold, mortgaged, or set apart to soldiers as pensions.

No question was never made as to the power of the Government to dispose of such land. (Hall's Mexican Law, secs. 94, 95, 96, 97, 98, and 99.)

Mexico succeeded to the rights of the Spanish Government in all such town or pueblo land, provided for a sale of the same in 1856. (Hall's Mexican Law, sec. 140, p. 56.) The right of the Republic of Mexico to so dispose of such land has not been questioned, so far as I know. In the case of Grisar v. McDowell, supra, in speaking of the rights of the city of San Francisco to the four square leagues claimed, Mr. Justice Field said: "Until the lands were assigned and measured off the right or claim of the pueblo was an imperfect one. It was a right which the Government might refuse to recognize at all, or might recognize in a qualified form; it might be burdened with conditions, and it might be restricted to less limits than four square leagues, which was the usual quantity assigned. Even after assignment the interest acquired by the pueblo was far from being an indefeasible estate, such as is known to our laws. The purpose to be accomplished by the creation of pueblos did not require their possession of the fee. The interest, as we had occasion to observe in
396 the case already cited, amounted to little more than a restricted and qualified right to alienate portions of the land to its inhabitants for building or cultivation, and to use the remainder for commons and for pasture lands, or as a source of revenue, or for other public purposes. And this limited right of disposition and use was, in all particulars, subject to the control of the Government of the country."

There is no occasion in this case to indulge in any presumption as to the power or authority of the Spanish government of New Mexico to make grants to the public lands subsequent to 1754. Article 12 of the royal regulations issued October 15th, 1754, expressly confers power on the governors of the distant provinces to approve grants to land. (White's Recop., vol. 2, p. 66.)

The grants introduced as evidence in this cause, to land within the four square leagues claimed by the city, are from the archives of the surveyor-general's office and seem to be in all respects regular. The archive evidence further shows that the grantees were put in juridical possession of the land granted by the proper officer without objection or injury to third parties, and in some cases the proof shows that valuable improvements have been made on the land; with continued possession of nearly one hundred years there never was at any time objection made by the town authorities, either to the making of the grants or possession under them.

One of the exhibits in evidence shows that the town council of Santa Fe petitioned the Governor for a grant of land now within the city limits and that a grant was made by the governor to it for the land asked for.

397 The ancient pueblo is estopped under the facts in this case from setting up claim to the lands granted by the governors of New Mexico to individuals within the four square leagues (Henshaw v. Bissell, 18th Wall., 255; 93 U. S., 326; 100 U. S., 598; 102 U. S., 68; 13 How., 307), and the present city of Santa Fe, as its successor, is also estopped.

But it is quite clear, from the exhibits in evidence, that the corporate authorities of the ancient town or pueblo did not claim any right to four leagues of land by virtue of a grant or supposed grant to it, and it is equally clear that the officials of the Spanish Government who had authority to dispose of the public domain did not understand that the pueblo was entitled to any such quantity of land. Under the provisions of the act of March 3, 1851, in relation to the settlement of private land claims in California, the board of commissioners, by the 14th sec. of the act, was authorized, when the existence of a city, town, or village was shown to be in existence on the 7th day of July, 1846, to presume, prima facie, a grant to such town, city, or village. The board was also authorized to take jurisdiction of any claim to land, whether legal or equitable, and to confirm such claim, &c. (9 Statute, p'. 630–631). It was under the provisions of that act that the city of San Francisco, as a successor to a pueblo, presented her claim for four square leagues to said board for confirmation. The pueblo under which the city claimed was a Mexican town settled in 1835, and under the royal instruction of 1789 had some rights in the quantity of land claimed. The real question in the case, out of which so much litigation arose, was in regard to the pueblo's title to the

398 land at the date of the change of flag. It was conceded that the act was broad enough to authorize the board of commissioners to convert any sort of a claim or easement to land into a legal estate. But inasmuch as the United States had appropriated a portion of the land claimed by the city prior to March 3, 1851, it became important to ascertain the pueblo right to the land under the law of Mexico and the treaty of Guadalupe Hidalgo. The board of commissioners confirmed to the city the greater portion of the land claimed for the use and benefit of the inhabitants of the city, and the district court approved the decree of the commissioners. This decree vested in the city the legal title to the land claimed for the use and benefit of the inhabitants. Before the cause was finally disposed of in the district court Congress passed an act transferring the record and proceedings to the circuit court for the district of

California. The circuit court modified the decree of the district court by excluding from it all lands disposed of by former governments or appropriated by the United States. (4 Sawyer, pp. 566–7.)

In 1855 the common council of the city of San Francisco passed what is called the Van Ness ordinance, which provided for an adjustment of the claims of the inhabitants and the city to the lands which had been confirmed. This ordinance was subsequently ratified by the legislature of the State. But notwithstanding the holding of the board of commissioners and the district and circuit court and the action of the common council, Congress on the 8th of March, 1866 (while said pueblo case was still pending in the court), passed a special act to quiet the title to the land claimed by the city of San Francisco, imposing certain conditions and limitations. (Statute 1865–6, p. 4.)

399 After the passage of this act the question of the character of the city's title at the date of the treaty came before the Supreme Court of the United States in the case of Grisar v. McDowell, 6 Wall., 363.

The plaintiff in the case claimed as seized in fee, under the title from the city of San Francisco; the defendant claimed possession as an officer of the United States, setting up that the property was public property of the United States reserved for military purposes. Mr. Justice Field, who decided the pueblo case (4 Sawyer, 566–7), delivered the opinion of the court, and discussed with great ability all the questions growing out of or connected with the claims of the city to the land in controversy.

It was again held by the court that the legal title to the land claimed by the defendant passed to the United States from Mexico under the treaty of 1848 and was a part of the public domain of the United States, and having been appropriated by the United States and reserved by the act of 1865–6, never had been the property of the city. The law of nations and the terms of the treaty of 1848, make it the duty of the Government to secure to th' citizens or corporation in the ceded territory such rights to private property as they possessed under the laws of Spain or Mexico at the date of the treaty. Our Governments may grant additional rights, but the citizens have no right to demand more.

The act of March 3d, 1851, authorized the board of commissioners to confirm to pueblos and towns, for the benefit of the inhabitants thereof, mere easements and usufructuary rights to land granted to them by the Government of Spain or Mexico, and by such decree of confirma-

400 tion they acquired the legal title to the land with full power to sell and dispose of the same. This, Congress in its sovereign capacity and absolute control over the public domain had a right to do. (Pollard Lesser v. Polk, 2 Howard, p. 603.)

Subdivision one of section 13 of the act of March 3d, 1891, is as follows: "No claim shall be allowed that shall not appear to be upon title lawfully and regularly derived from the Government of Spain or Mexico, or from any State of the Republic of Mexico having lawful authority to make grants to land, and one if not then complete and perfect at the date of the acquisition of the territory by the United States, the claimant would have had a lawful right to make perfect had the territory not been acquired by the United States." It will be seen that this court can not confirm any imperfect or incomplete title which the claimant would not be entitled to have made perfect had the United States not acquired the

territory. Now, as I have shown, the Supreme Court of the United States have repeatedly held that the title acquired to four square leagues of land by a grant to a pueblo or town is an imperfect one. It follows necessarially that this court has no power to confirm such a title. It is true the right or easement in the land acquired by a pueblo or town may be conferred by a perfect grant to such right or easement, but under the law the right may be terminated at the will of the sovereign, and such right terminated at the date of the transfer of sovereignty, as was held by this court in the case of pueblos Zia, Santa Aria, and Jemes v. The United States, decided at a former term. For some reason Congress did not confer power on this court to convert, by
401 decree of confirmation, easements and usufructuary rights given by the Spanish and Mexican Governments to pueblos and towns in large tracts of land to be used for the benefit of such pueblos and towns and the inhabitants thereof during the pleasure of the sovereign, into indefeasible estates. There is one other question in the cause which seems to me conclusive against the claim made in the petition to four square leagues of land. The laws of Spain and Mexico granting lands to new pueblos and towns settled by Spaniards do not apply to Indian pueblos or towns nor to old pueblos or towns taken possession of by Spaniards. The law prohibits Spaniards from in any way interfering with the lands, towns, or pueblos occupied by Indians. (White's Recop., vol. 2, pp. 44, 45, and 54.)

History informs that "When the Spaniards first visited Santa Fe in the year 1542 it was a populous Indian pueblo. It is not known when the Spaniards took possession of it, but it has been the capital of New Mexico since the year 1640.

"It was recaptured by the Indians in 1680, the principal buildings burned, and the whites driven out. The town was recaptured by the Spaniards in the year 1694." (The American Cyclopedia, vol. 15, p. 619.)

The court confirmed the supposed grant to all the lots within said four square leagues of land, now held in severalty, to the respective lot holders thereof, holding said lots in privity with said Sante Fe pueblo grant, without reference to the date of the claim under which they might hold. No assignment of lots was ever made by the city or pueblo to anyone.
402 The lot claimants under the city are not parties to the suit, and no decree should be entered in their favor.

A decree should be ordered conferring to the city the land granted to it by the governor of New Mexico, and the plaza, streets, alleys, and other property held by the corporation for public purposes, and the petition should be dismissed as to all other claims. The court should examine the grants and evidence filed in support of claims to land within the four square leagues which were submitted with this case, and if such grants are genuine, and the claimants have such an interest as entitles them to prosecute the suit, such grants should be confirmed.

W. W. MURRAY,
Associate Justice.

403 And be it further remembered, that afterwards, to wit, on the 29th day of September, A. D. 1894, the same being the 39th day of the August term, A. D. 1894, the further following proceedings were had in the said cause, to wit:

THE CITY OF SANTA FE
vs.
THE UNITED STATES. } No. 80.

Now, at this day comes Matt G. Reynolds, United States attorney, under instructions from the head of the Department of Justice, and in open court prays an appeal to the Supreme Court of the United States in the above-entitled cause, which is granted and allowed.

404 And afterwards, to wit, on the nineteenth day of December, A. D. 1894, there was filed in the office of the clerk of said court a prayer for, and an allowance of, an appeal in said cause, which is in the words and figures following, to wit:

Court of Private Land Claim', Santa Fe district.

UNITED STATES OF AMERICA, *ss:*

CITY OF SANTA FE, PLAINTIFF AND appellee,
vs.
THE UNITED STATES ET AL., DEFENDANT and appellant.

The above-named defendant, the United States, considering itself aggrieved by the decree entered on the 28th day of April, 1894, in the above-entitled proceeding, doth hereby appeal from said decree to the Supreme Court of the United States, and it prays that this appeal be allowed, and that a transcript of the record and proceedings and papers upon which said decree was made, duly authenticated, may be sent to the Supreme Court of the United States. The said defendant shows to the court here that the statement by the United States attorney to the Attorney-General, required by sec. 9 of the act of Congress establishing this court, approved March 3, 1891, was not made in said cause within sixty days after the rendition of judgment therein, but has not yet been made.

Dec. 18, 1894.

MATT G. REYNOLDS,
U. S. Attorney, for Defendant and Appellant.

And now, to wit, on Dec. 19, 1894, it appearing to the satisfaction of the court that the statement required to be made by the U. S. attorney to the Attorney-General by sec. 9 of the act of Congress establishing this court was not made within sixty days after the rendition of the judgment therein, but has not yet been made, it is ordered that an appeal be, and hereby is, now allowed as prayed for.

WILBUR F. STONE,
Associate Justice.

405 And be it further remembered that afterwards, to wit, on the 19th day of December, A. D. 1894, citation in the said cause was returned to the office of said clerk, which said citation is in words and figures following, to wit:

406 *Citation on appeal to Supreme Court.*

UNITED STATES OF AMERICA ss:

The President of the United States to the City of Santa Fe, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, to wit, on the 15th day of February, 1895, pursuant to an appeal filed in the office of the clerk of the Court of Private Land Claims, wherein the United States is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 19th day of December, in the year of our Lord one thousand eight hundred and ninety-four.

WILBUR F. STONE,
Associate Justice, Court of Private Land Claims.

I hereby acknowledge service of the foregoing citation for and on behalf of the plaintiff and appellee, this 19th day of December, 1894.

EDWARD L. BARTLETT,
One of the Attorneys of Record for City.

407 UNITED STATES OF AMERICA,
Territory of New Mexico, ss:

I, James H. Reeder, clerk of the U. S. Court of Private Land Claims, do hereby certify that the above and foregoing 406 pages contain a full, true, and complete transcript of all papers and record entries of the cause of The City of Santa Fe, plaintiff, vs. The United States, defendant.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of Santa Fe, the 20th day of December, A. D. 1894.

[SEAL.] JAMES H. REEDER,
Clerk.
By IRENEO L. CHAVES,
Deputy.

This appeal is approved.

RICHARD OLNEY,
Attorney-General.

(Indorsement on cover:) Case No. 15761. Term No., 877. The United States, appellant, vs. The City of Santa Fe. Court of Private Land Claims. Filed December 29th, 1894.

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165-675

165-675

STIPULATION AND ADDITION TO RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. ~~594~~ 208.

THE UNITED STATES, APPELLANT,

vs.

THE CITY OF SANTA FE.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

RECORD FILED DECEMBER 29, 1894.

ADDITION FILED DECEMBER 20, 1895.

(15761.)

SUPREME COURT OF THE UNITED STATES,

OCTOBER TERM, 1895.

No. 504.

THE UNITED STATES, APPELLANT,

vs.

THE CITY OF SANTA FE.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

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a *Supplemental transcript of record containing all exhibits introduced in evidence on the trial of said cause by the codefendants of the United States.*

Supreme Court of the United States. October term, 1895. No. 504. The United States, appellant, vs. The City of Santa Fe. Appeal from the Court of Private Land Claims.

1 *Talaya grant. Act of juridical possession, April, 1731.*

[Reported No. 89 in surveyor gen'l's office. Referred to in printed record, pages 43, 44, 57, and 66.]

Mes de abril de mill setecientos y trente y un, es un complimiento y mandato del Sr. Govenr. y Cappn., passé yo, el Capp. Diego Arias de Quiros, alcalde mo. y cappn. á guerra de esta dha. villa, al puesto y paraje de el Rio Arriba de esta dha. villa, y llevé en mi compañía á Jua. Manuel Chirinos, juntante. con Manuel Trujillo, y puesto en las tierras de que se le yso merced, lo cojí de la mano á dho. Manuel Trujillo, haciendo las ceremonias acustumbradas, arancando sacate, tierando piedras y dando bozes en señal de suyo, y le señalé los linderos que de la parte del norte por el Rio Arriba de onde a de sacar la asaquia que es adelante de un peñasco que está pegado al dicho rio, que es el primer arollo y por la parte del oriente con la sierra que llaman la Talaya, y por le parte del poniente con un arrollo jondo que está enfrente de la fundision y juntante. la esequia Madre de Arriva le sirve de lindero, y por el sur con un arrollo jondo ya mensionado y de todo lo referido le dé y doy la posesion rl. en nombre de Su Magd. (Dios le gude.), y para que conste lo firmé ante mi como juez resepr. con los testigos ynfraescriptos de mi asistencia á falta de escrivo puco. ni rl., que no lo ay en este rno., en el presente papel por no corrir de ningun sello en estas partes; doy fee.

Sto.:

JNO. MANUEL CHIRINOS.

MANUEL THENORIO DE ALBA.

Ante mi como juez reseptor.

DIEGO ARIAS DE QUIROS.

2 [Translation of the foregoing act of possession. Referred to in printed record, pages 43, 44, 57, and 66.]

Month of April, in the year one thousand seven hundred and thirty-one, in compliance with the decree of his excellency, the governor and captain-general, I, Capt. Diego Arias de Quiros, chief alcalde and war captain of this said village, proceeded to the point and place upon the river from this said village, taking with me Juan Manuel Chirinos, together with Manuel Trujillo, and being on the lands granted, for which a grant was made to him, I took the said Manuel Trujillo by the hand, performing the customary ceremonies, he plucking up grass, casting stones, and shouting in testimony of his possession; and I designated to him the boundaries, which are on the north up the river from where the acequia has to be taken out, which is in front of a penasco on the margin of the said river, at the first arroyo, and on the east with the mountain called the Talaya, and on the west a deep arroyo in front of the furnace,

together with the upper acequia Madre, which serves also as the boundary, and on the south aforesaid deep arroyo, all of which I did and do give him in royal possession in the name of His Majesty, whom may God preserve.

And in testimony whereof I signed this, together with the undersigned, my attending witnesses, in the absence of a public or royal notary, there being none in this province, and on this paper, there being none of any other seal in these parts; to which I certify.

Witness:

JUAN MANUEL CHIRINOS.
MANUEL THENORIO DE ALBA.

Before me as special justice.

DIEGO ARIAS DE QUIROS.

3 *Testimony—Talaya grant to Manuel Trujillo.*

Matias Urioste, having been by the surveyor-general duly sworn to depose in this private land claim, on his oath declares:

Question by Mr. Samuel Ellison, as attorney for present claimants. What is your name, age, occupation, and place of residence?

A. My name is Matias Urioste. My age is sixty-four years. My occupation is laborer, and my residence is here at Santa Fe, where I was born and always lived.

Q. Do you know the land called the Talaya grant? And if so, state where it is situated, and all you know concerning the land material in the premises of this claim for the same.

A. I know a tract of land so called, situate in the county of Santa Fe, east of and near the city of Santa Fe, on the south side of and upon the Santa Fe Creek, and the boundaries of which land, as they have been pointed out and explained to me many times by Blas Ortiz, now deceased, who lived many years upon the tract and died thereon, and whom I for many years served as an employee, and as I thus learned them, they are, on the north the Santa Fe River or Creek, on the east a deep arroyo in front of a rock bluff, now called the Piedra Ahumada; on the south the arroyo Hondo, and on the west a deep arroyo, which empties into the Santa Fe River at the Fundicion, a place taking that name from the fact that many years ago there was a smelting furnace there. I have seen the grant for the land I am referring to made to one Manuel Trujillo, in what year I do not remember. I well remember that some forty years ago the grant was in possession of said Blas Ortiz, and as it was then, though an entire sheet of paper, torn, he was mending the fracture, in which operation I assisted him and then read the document, or a portion of it, the mending of it being done with a needle and thread. Since then I have lost my eyesight, so that now I can not read. The land has always been continuously occupied and cultivated since I have known it by said Blas Ortiz, till his death about two years ago at the age of more than eighty years, and since then by those holding under him.

Question by surveyor-general. Do you know of any mines or minerals upon the Talaya tract you have described?

A. I have never seen anything of the kind upon the tract, though I have heard there was once a mine of some kind of metals worked at the

foot of the Talaya mountains upon this tract, and I know that at the place before mentioned at the Fundacion there were metals smelted, though I never saw the operation.

Q. Have you any interest in the land or in this claim for the same?
A. I have none whatever.

his
MATIAS URIOSTE.
mark

Wit. JOSEPH DE SOTO.

Subscribed and sworn to by said Matias Urioste before me this March 25, 1874.

JAMES R. PROUDFIT,
Surveyor-General.

4 I, Luis Gold, do solemnly swear that I have for more than one year been constantly and diligently inquiring and searching for the document of concession, which I have been informed and believe was executed to Manuel Trujillo by the governor and captain-general of New Mexico, in or about the year 1731, for a tract of land known as the Talaya grant, near the city of Santa Fe, and have been unable to find the same or any trace thereof. I being a party interested by purchase in said land, and having a great desire to obtain said document of concession and file with my claim for said land at the United States surveyor-general's office, and I do verily believe that the same has been lost or destroyed, so that there is no probability of finding or obtaining the same.

LUIS GOLD.

Subscribed and sworn to before me by Luis Gold, this 10th day of April, 1874.

JAMES R. PROUDFIT,
Surveyor-General.

Surveyor-general's decision.

OPINION.

This claim for land comes before me for approval under the treaty of Guadalupe Hidalgo and the eighth section of the act of Congress approved July 22, 1854, establishing this office.

Although the original grant paper in the case is probably lost, yet I have no doubt, from reading the original act of possession, which is a part of the record, the lands claimed were actually granted in or before the year 1731, by competent authority and in usual manner, to one Manuel Trujillo, and that he and his legal representatives have since held it undisputed. The boundaries are well-known landmarks, and I recommend that the title be confirmed to the legal representatives of said Manuel Trujillo, according to the boundaries set forth in the said act of possession.

I respectfully transmit copy of the record complete, in triplicate.

JAMES R. PROUDFIT.
U. S. Surveyor-General.

UNITED STATES SURVEYOR-GENERAL'S OFFICE,
Santa Fe, N. M., April 13, 1874.

[Here follows map marked p. 5.]

6 *Deed Man'l Truxillo to Manuel Ortiz, 28 May, 1743.*

[Referred to printed record, page 45.]

Sepan quantos esta escriptura de venta rl. bieren como yo, Manuel Trujillo, vecino de esta villa de Santa Fe, tengo una merced de tierras que Su Magd. (que Ds. ge.), en su real nombre se me iso y de ellas le vendo á Manuel Hortiz parte de ellas, con una casa que está entre la azequia madre y el camino rl., con un pedazito de tierras pequeño; y los linderos de la tierras por la parte del oriente un arroyo donde estan unas canoas altas, por la parte del poniente una Santa Cruz, que está en la derechura de un sauco que está en la otra banda del rio; por el norte el camino real que para el rio arriba; por el sur la asequia de Manuel Truxillo con entradas y salidas para el Monte, y dichas tierras y casa se las vendí á Manuel Hortis por la cantidad de trecientos pesos que confieso aber recibido de su mano á la mia, de que me doi por contento, sastifecho y pagado, y que no valen mas las dichas tierras, y si valer puedan de la damasia le ago gracia y donacion mera, pura, perfecta *he* ynrrevocable, que el derecho llama ynterbibos, sobre que renuncio las leyes del *ho*rdenamiento real fecho en corte de Alcalde Mares que trata de las cosas que se venden y compran por mas ó menos del justo precio, con la ygnorme leccion ó engaño el remedio de los quatro años que tenía para pedir recepcion de este contrato, me desisto y aparto de todas las acsiones reo. directas ó indirectas, que á dhas. tierras tenía, todas las trasfiero en la persona del dho. Manuel Hortis para que como dueño de ellas use á su satisfacion, vendiéndolas ó enagenándolas á la persona ó personas que mas le pareciere, como tambien renuncio las leyes de los emperedores Justiniano y Beleiano, leyes de Toro y Partida, con la *gu*eneral del derecho, y que no me valdré de ellas yo, ni mi muger, ni yjos erederos, y si acaso nos quisieremos valer de alguna de ellas no seamos oidos en juicio ni fuera de él, y doy poder á las reales justicias de Su Magestad para que con todo rigor me compelen y aprenien á el cumplimiento de esta escriptura como si fuera por sentencia definitiva de juez competente con autoridad de cosa jusgada. Y para su mayor fuerza y validacion rogué del Capn. Antto. de Ulibarri, alcalde mayor de esta villa, interpusiere su autoridad y decreto judicial, y yo, Antto. de Ulibarri, alcalde mayor y capn. a guerra de esta villa de Santa Fe, digo que la interponía é interpuse. Doy fee, conozco á el otorgante quien así lo otorgó por ante mí actuando por receptoria, por la notoria falta de escribano po. y rl., que no lo hay en este reyno, con los testigos ynfraescriptos de mi asistencia en el presente papel, por no correr de ningun sello en estas partes; y es fecho en veinte y ocho dias del mes de mayo de mil setecientos y cuarenta y tres años, de que doy fee.

ANTTO. DE ULIBARRI,
Juez Receptor.

To.: GREGORIO GARDUNO.
" SEBASTIAN DE APODACA.

7 [Translation deed May 28, 1743. Man'l Trujillo to Man'l Ortiz. Referred to in printed record, page 45.]

To all who shall see this deed of royal sale, know ye that I, Manuel Trujillo, resident of this town of Santa Fe, have a grant of land which

His Majesty, God preserve him, in his royal name was made to me, and of said lands I sell to Manuel Ortiz a part thereof, together with a house situate between the acequia Madre and the highway, together with a small piece of land, and the boundaries of the lands are: On the east side an arroyo where there are some elevated flumes; on the west side a holy cross, which stands in a line to the right of a willow tree (Sauco) which is on the other side of the river; on the north the highway leading up the river, and on the south the acequia of Manuel Trujillo; and I sold said lands and house, with entrances to and exits from the (Monte) forest, to Manuel Ortiz for the sum of three hundred dollars, which I acknowledged to have received from his hand to mine, for which I declare I am content, satisfied, and paid, and that said lands are not worth more, and if they are of greater value I make to him gift and donation of the excess full, pure, perfect, and irrevocable, which the law terms intervivos, wherefore I renounce the royal ordinance adopted in the courts of Alcalde Nares, which tracts of sales and purchases made for more or less than the just price, with the aid of great damage and fraud, and the remedy of the four years which he had to demand the reception of this contract, and he waives and relinquishes all his actions, rights, direct or indirect, he had to said lands, and transfers the same to the person of said Manuel Ortiz, in order that he, as owner thereof, may make such use of the same as he may deem proper, to sell or alienate the same to the person or persons he may see fit. And that he also renounces the laws of the Emperor Justinian and Beleyano, the laws of Toro and Partida, with the general laws of right, and I nor my wife nor my children shall plead them, and if we should at any time attempt to do so, we shall not be heard in or out of court, and we empower the royal justice of His Majesty, that with all rigor to compel and obligate me to comply with this instrument as though it was by final sentence rendered by a competent judge, with authority over matters adjudicated. And for its greater force and validity I requested Capt. Antonio de Ulibarri, chief alcalde of this town, to interpose his authority and judicial decree, and I, Antonio de Ulibarri, chief alcalde and war captain of this town of Santa Fe, declared that I would and do interpose it. I certify that I know the vendor, who thus executed the same before me as special justice for the well-known lack of a public or royal notary, there being none in this province, with the undersigned witnesses of my attendance on the present paper, there being none of the stamped in these parts, and is dated May 28th, in the year one thousand seven hundred and forty-three, to which I certify.

ANTONIO ULIBARRI,
Acting Judge.

Wit.: GREGORIO GARDUNO.
" SEBASTIAN DE APODACA.

8 *Archive 970. Division of estate of Manuel Trujillo, 1751.*

[Referred to in pages 68 and 90 of printed record.]

En la viya de Sta. Fee, a veinte y tres de abril de mil setesiento y sinquenta y uno, yo, Manuel Gallegos, alcalde maior de la viya de Sta. Fee, pediliento de las dos crederas yjas legitimas, del difunto Manuel

Trugiyo, y de la difunta Maria de la Candelaria Gonzales, pase a la casa y dichas tierras, y abiendome echo la pas les parti por yguales partes y quedaron contentas, cabiendole a la mayor, que es Maria Francisca Trugiya, de la casa dose varas y quarta, y limita de la guerta con lo de demas de las tierras que la pertenecan por erencia de su padre y madre lla difuntos, dichos limderos pertenecan desde las tierras de Manuel Ortiz asta un arroyo que esta una cruz, en que se da por contenta.

A la dicha su ermana Antonia Marcela Trugiya le cupo de la dicha casa las mismas dose varas y quarta, con la mita de la guerta y de las tierras, le cupo desde la cruz y arroyo lindero de su ermana Maria Francisca Trugiya, asta *la dlepola*, y donde ase un arroyo en donde cita un pinabete, una cruz pintada que asta ay llega su lindero, sirben de lindero las tierras, de Pacho Trugiyo, la que se dio por contenta la dicha Antonia Marcela Trugiya.

Y de todo lo referido les de y doy la posesion rl. en nombre de Su Md. (Dios guarde), y por que coste lo fime, con dos testigos de vista, ante mi, fueron Francisco Anayo Almazon y Juan Jose Archuleta, y para que coste lo firme anti mi, con jues receptor, con los testigos ynfrascritos de mi assistencia, a falta de escribano publico, mi real que no le ay en este reyno y el en present papel por no correr de ningun sello en estas partes; en que doy fee. Ut supra.

Ante mi como jues receptor,

MANUEL GALLEGOS.

Testigos:

JUAN PEDRO TAFOYA.

LUCAS MIGUEL DE MORA.

9 [Translation of foregoing act of partition. Referred to in printed record, pages 68 and 90.]

In the town of Santa Fe, the 23rd of April, 1751, I, Manuel Gallegos, alcalde mayor of the town of Santa Fe, upon petition of the two heirs, legitimate daughters of the deceased Manuel Trujillo and the deceased Maria de la Candelaria Gonzales, went to the house and said lands and, having taken the proper steps, divided them in equal parts, and they remained satisfied; the elder, Maria Francisca Trujillo, taking 12½ varas of the house, and half of the garden, and of the other lands inherited from her father and mother already dec'd; which boundaries are from the lands of Manuel Ortiz to the arroyo where there is a holy cross; with which she remained content.

To her said sister, Antonia Marcela Trujilla, I set apart 12¼ varas, and a half of the garden, and of the lands. I set apart to her from the cross and arroyo boundary of her sister, Maria Francisca Trujillo, to (lo dle pola) and to where there is an arroyo and fur tree and painted cross, to which reaches her boundary, and they serve as boundary of the lands of Pacho Trujillo. And the said Antonia Marcela Trujillo remained satisfied.

And of all referred to I gave and give royal possession in the name of His Majesty (God preserve him); and that it may appear, I sign it with two viewing witnesses before me, who were Francisco Anaya Almazan and Juan Jose Archuleta, and that it may appear, I sign it as acting judge, with the undersigned my assisting witnesses, for lack of a royal or

public notary, there being none in this Kingdom, and on this present paper, there being no sealed paper current in these parts.

To which I certify, as acting judge.

MANUEL GALLEGOS.

Witnesses:
PEDRO TAFOYA.
LUCAS MIGUEL DE MORA.

10 *Archive No. 858. Deed from Fernando Romero, son-in-law of Manuel Trujillo, to Phelipe de Sandoval and Fernandes de la Pedrera, Oct. 25, 1756.*

[Referred to in printed record, page 45.]

Un pedaso de tierra labrada de pan llevar, la cual esta rio arriba de esta villa junto a la presa, y medida la dicho tierra tiene de oriente a poniente ciento y cincuenta varas castellanos y medida la dicha tierra por la parte de mas abajo donde hace cola, y por el mismo viento tubo ciento cuarenta y una vara, y de norte a sur tubo la dicha tierra ciento veinte varas y media; y son sus linderos por el oriente con un arroyo que baja del monte y tierra de Marcela Trujillo, por el poniente con un arroyo grande y unos pinos altos que estan en mismo arroyo, y por el norte con el rio de esta villa y por el sur con una acequicita que corta la dicha tierra y con tierras del vendedor.

A ruego de—
FRANCISCO GUERRERO. FERNANDO ROMERO.
BERNARDO MANUEL GARRUNZU.
LUCAS MOYA.

11 [Translation of the foregoing archive No. 858. Deed of Oct. 25, 1756, from Fernando Romero, son-in-law of Manuel Trujillo, to Phelipe Sandoval and Fernando de la Pedrera. Referred to in printed record, page 45.]

* * * * * * *

a piece of corn-growing land which is up the river from this city of San Fe at the dam, and measures from east to west 150 varas, and below at the west end it measures 141 varas north to south, and the other end, 120 varas, bounded on the east by an arroyo coming down from the woods (monte) and by land of Marcela Truxillo; on the west by a big arroyo and some tall pine trees in said arroyo, and on the north with the river of this city, and south by a little acequia that crosses said land and by land of the grantor. * *

(Signed) FERNANDO ROMERO.

Wit.: FRANCO. GUERRERO.
" BERNARDO MANUEL GARRUZU.
" LUCAS MOYA.

12 *Archive No. 35, Junio 4, 1759. Deed from Marcial Gonzales to Franco. de Analla.*

[Referred to in printed record, page 70.]

Parecio Marcial Gonzales, vecino de esta villa, y dijo que daba en venta a Franco. de Analla, un pedazo de tierra de lavor de pan llevar,

que esta en la parte de rio arriba de esta villa, que medido el dicho pedaso de tierra tiene de oriente 165 varas castellanos y de norte a sur 175, y son sus linderos per el oriente con un arroyo que baja a la casa del difunto Manuel Trujillo y tierras del comprador que unas y otros los devide dicho arroyo; por el poniente otro arroyo que esta junto a la casa de Juan Bautista De Hera, que dicho arroyo devide y asi mismo linda con un pedacito pequeño de tierras de Juan Gonzales; por el norte desde el mismo bordo de la dicha tierra con tierra del difunto Manuel Trujillo, y por el sur un pedaso de tierra del Capt. Thomas de Ze, que solo tiene 37 varas, y en adelante por dicho viento con tierras del comprador.

[Translation of archive No. 35.]

Appeared Manuel Gonzales, resident of this town, and stated that he gave by sale to Franco. de Analla a piece of cultivated land, which is up the river of this town; said land measures from east to west 165 varas, and from north to south 175 varas. It is bounded on the east by an arroyo, descending to the house of Manuel Trujillo, deceased, and lands of the purchaser, said arroyo dividing the lands one from another; on the west another arroyo, which is near the house of Juan Bautista de Hera; said arroyo divides and also is the boundary of a small piece of land of Juan Gonzales; on the north from the said boundary of said land with land of Manuel Trujillo, deceased, and on the south with a piece of land of Capt. Tomas de Ze, where it only measures 37 varas, and following in said direction along the line of the purchaser.

13 *Archive No. 50. Deed from Francisca Trujillo to Maria de Guadalupe de Archibeque, 1767.*

[Referred to in printed record, page 70.]

En esta villa de Santa Fe, en catorse dias del mes de sept. de 1767, ante mi, Dn. Francisco Guerrero, alcalde mayor de dicha villa y su jurisdiction, por el Señor Dn. Pedro Fermin de Mendinueta, del órden de Santiago, Gov. y Capt. Gral. de este Reyno del Nuevo Mejico por Su Magestad, compareció Francisca Trujillo, vecina de dicha villa, á quien doy fe conosco, y dijo, que daba y dió en venta real á Maria de Guadalupe de Archibeque, tambien vecina de dicha villa, es á saber un pedaso de tierra hayriasa y montuosa que está en la otra vanda del rio de esta villa; que medido el dicho pedaso de tierra tiene por lo largo de sur á norte ciento y noventa varas, y de oriente á poniente en lo ancho tiene noventa y cinco y media varas; y sus linderos son por el oriente con un arroyo que derrama del acequia de los Armentos, por el poniente otro arroyo que por dichos vientos es de a arroyo, por el norte con la acequia regadera de las tierras de la vendedera, y por el sur con la acequia de los Armentos y con sus entrados y salidos, y que se lo dió por el precio y cantidad de treinta pesos que confiesa la dicha Franca. Trujillo que la cantidad la ha recibido á su entera satisfacion. * * *

Todo lo cual, y como dicho es, otorgó lo susodicha Franca. Trujillo por ante mi, dicho alcalde mayor y testigos, y no firmó la otorgante por no saber; firmélo yo, el expresado alcalde mayor, con dos testigos

actuando como juez receptor á falta de escribano real, que no le hay en este reyno, en la expresada villa dicho dia, mes y año; de que doy fé.

FRANCISCO GUERRERO.

LUCAS MOYA.
JUAN ESTEVAN BACA.

14 [Translation of foregoing archive No. 50. Referred to in printed record, page 70.]

In this town of Santa Fe, on the 14th day of Sept., 1767, before me, Don Francisco Guerrera, chief justice of said town and its jurisdiction, by Don Pedro Fernando de Mendinueta, the order of Santiago, governor and captain-general of this Kingdom of New Mexico by his Majesty, appeared Francisca Trujillo, a resident of said town, whom I know, and she gave and gives in royal sale to Maria de Guadalupe de Archibeque, also a resident of said town, that is to say, a piece of uncultivated and wooded land which is on the other side of the river of this town; said piece of land measures in length from north to south 190 varas, and from east to west in width has 95 varas; it is bounded on the east by an arroyo that crosses the acequia of the Armentas; on the west another arroyo; on the north with the acequia irrigating the lands of the vendor; on the south with the acequia de los Armentas, with its entrances and exits, and she sold the same for the sum of thirty dollars, which the said Francisca Trujillo acknowledges to have received to her entire satisfaction. * * *

All of which as is here stated was acknowledged by the above-named Francisca Trujillo before me, said chief justice and witnesses, and she did not sign, not knowing how. I, the said chief justice, sign with two witnesses, acting as attesting judge for want of royal notary, there being none in this Kingdom, in the town named on said day, month, and year. To which I certify.

FRANCISCO GUERRERO.

Wit.: LUCAS MOYA.
JUAN ESTEVAN BACA.

15 *Archive No. 444. Will of Candelaria Gonzalez.*

[Referred to in printed pages 60, 67, 68, and 69.]

Viuda de Manuel Trujillo tubieron dos hijos y dijo por unicos herederos y que se repartan por iguales partes pagando primero los deudos causados del difunto mi marido, y dejo a mi hijo, Fernando Romero, como alvacea y tenedor de bienes enter se pone en estado de gracia mi hija, Martina Trujillo.

Ytem; dijo por mis bienes un rancho que tengo en rio arriba de esta villa, para que se repartan mis dos hijas, Maria Francisca y Marcela.

Ytem; es mi voluntad se le de a mi hermana, Antonia Gonzales, un pedaso de tierra de dicho rancho de las tierras de arriba de la acequia del trigo a la acequia de arriba.

Ytem; es mi voluntad se le de otro pedaso de tierra a Asencio Antonio Trujiilo por haberlo criado desde que nacio, y este pedaso de tierra se le dara de la acequia del trigo a la acequia de arriba.

Ytem; dijo un pedaso de tierra hobido por merced real a mi difunta madre, Micaela Basquez, el que nos repartio el alcalde mayor de esta villa Dn. Joseph de Bustamante a siete hermanos, y lo que a mi me toca se lo dejo a mis dos hijos para que se partan por iguales partes.

16 [Translation of foregoing archive No. 344. Will of Candelaria Gonzales. Referred to in printed record, pages 60, 67, 68, and 69.]

Widow of Manuel Trujillo. We have had two children, whom I declare are sole heirs; and that they shall receive an equal part after are paid the old debts of my deceased husband; I leave my son, Fernando Romero, as executor and in charge of all goods until the same are turned over to my daughter, Martina Trujillo.

Item. I declare as my property a ranch I have up the river of this town, which shall be divided between my two daughters, Maria Francisca and Marcela.

Item. It is my pleasure that there be given to my sister, Antonia Gonzalez, a piece of land in said ranch, lying above the acequia of the wheat to the upper acequia.

Item. It is my pleasure that another piece of land be given to Asencio Antonio Trujillo, I having raised him since his birth; and this piece of land will be given from the acequia of wheat to the upper acequia.

Item. I declare I have a piece of land had by royal grant made to my deceased mother, Micaela Basquez, which was partitioned by the chief alcalde of this town, Don Joseph de Bustamente, among seven heirs, and that which belongs to me I leave to my two children that they receive in equal parts.

17 EXHIBIT No. 2.

[Copy of archive No. 239, being grant to Antonio Dominguez, Aug. 14, 1742. Referred to pages 58 and 59 of printed record.]

PETITION.

SOR. GOVERNADOR Y CAPN. GRAL.:

Antonio Dominges, vesino de la villa de Santa Fe, paresco ante la grandeza V.as, en la mejor forma que aya lugar en derecho y al mio conbenga y dijo, que registró un pedaso de tierra yerma y montosa de la otra banda del rio de esta villa, que por el norte linda con tierras de Luis de Armenta, por el sur con el arroyo de los Pinos, por el oriente con el camino del ojito, por el poniente con el comino de Pecos y por todo a V.ssa pido, con todo rendimiento, sea servido de hacerme merced en nombre de Ma. Ge. de dicho pedazo de tierra para mi y mis hijos, herederos y sucesores, y se me de la posecion rl. que en ello recibiré merced con justicia, que pido y juro en forma no ser de malicia este mi pedimento, y en lo necesario, &c.

ANTONIO DOMINGES.

GRANT.

Autto. En la villa de Santa Fe, capital de este reino del Nuevo Mejico en catorce dias del mes de agosto del año de mil *de* setecientos

cuarenta y dos años, yo, el Thente. Carol. Dn. Gaspar Domingo de Mendoza, governr. y cappn. genl., Antonio de Ulibarri, alcalde mayor de dicha villa, pasé al sitio que menciona el suplicante y le dé la posecion real en nombre del Rey nuestro Senor (Dios le ge.), para si, sus hijos y herederos, con la forma que se acostumbra; así lo proveý, mandé y fimé con los de mi asistencia, como se practica en dicho reyno, y en el papel comun por no correr el sellado, de que doy fee.

Dn. Gaspar Domo. de Mendoza.
Manuel Sanz de Garvizu.
Jun. Phe. de Rivera.

18 ACT OF POSSESSION.

Posesion. En la villa de Santa Fe, en catorce dias del mes de agosto de mil setecientos cuarenta y dos años, yo, el Cappn. Antonio de Ulibarri, alcalde mayor de esta dicha villa, digo que en cumplimiento del auto y merced por el señor teniente coronel, Dn. Gaspar Domingo de Mendoza, govr. y capn. gl. de esta reyno, pasé yo, dicho alcalde mayor, á las tierras que pide Antonio Dominges, y le dé posecion real en nombre de Su Magd., cogiendole de la mano y paseandole por dichas tierras en donde arranqué sacate, tiró piedras, dió voces diciendo viva el Rey Nro. Señor, Dn. Phelipe Quinto (que Dios guarde ms. años), asistendo á la posecion los testigos de bista, que lo fueron Juan de Arquello, Luis de Armenta, Francisco Rendon y Leonardo Gonzales; así lo autuo con los testigos de mi asistencia á falta de escrivano publico y rl., que no lo ay en este reyno; en el presente papel por no correr de ningun sello en estas partes; de qe. doy fee.

Antonio de Ulibarri,
Juez Receptor.

Franco. Rendon.
Tto.: Jun. Manuel Chirinos.

Translation of the foregoing original Spanish of grant to Antonio Dominguez, August 14, 1742.

19 [Translation of the foregoing original Spanish of grant to Antonio Dominguez, Aug. 14, 1742. Referred to printed record, pages 58 and 59.]

PETITION.

Gov. and Capt. General:

I, Antonio Dominguez, resident of the town of Santa Fe, in the best form there may be in law and to me pertains, appear and state that I have registered a piece of public land and wooded hills on the other side of the river of this town, which is bounded on the north by lands of Luis de Armenta; on the south by the arroyo de los Pinos; on the east by the road of Ojito; on the west by the road that goes to Pecos, for all of which I humbly ask your highness to be pleased to grant me in the name of His Majesty (God preserve him) said piece of land for myself, my children, heirs, and successors, giving me the royal possession by which I shall receive grace and justice, which I ask, and I swear in due form I do not act in prejudice in this my petition; and whatever may be necessary, &c.

Antto. Dominges.

GRANT.

Decree. At the town of Santa Fe, capital of the Kingdom of New Mexico, on the fourteenth day of the month of August, seventeen hundred and forty-two, I, Lieutenant-Colonel Dn. Gaspar Domingo de Mendoza, governor and captain-general of this Kingdom, by virtue of the present writing, order Captain Antto. de Ulibarri, alcalde mayor of said town, to go to the place mentioned by the petitioner and give him the royal possession in the name of the King, our lord (God preserve him), for himself and heirs in the usual form. Thus I provided, ordered, and signed with those of my attendance as practiced in said Kingdom, and on the present common paper, there being none stamped. To which I certify.

Dn. GASPAR DOMINGO DE MENDOZA.

MANUEL SANZ DE GARVIZU.
JUAN THO DE RIVERA.

20 ACT OF POSSESSION.

At the town of Santa Fe, on the fourteenth day of the month of August, seventeen hundred and forty-two, I, Captain Antonio de Ulibarri, alcalde mayor of this town, state that, in obedience to the decree of grant issued by Lieutenant-Colonel Gaspar Domingo de Mendoza, governor and captain-general of this Kingdom, I, said alcalde mayor, went to the land asked for by Antonio Dominguez, and gave him royal possession in the name of His Majesty. I took him by the hand and walked him over said land, where he plucked up grass, threw stones, and shouted, saying, Long live the King, our lord, Lelipe Fifth (whom may God preserve many years), there being present at the possession the witnesses, Juan de Arquello, Luis de Armenta, Franco. Rendon, and Leonardo Gonzales. Thus I acted with the witnesses of my attendance for lack of public or royal notary, there being none in this Kingdom, and on the present paper, there being none stamped in these parts. To which I certify.

ANTTO. DE ULIBARRI,
Acting Judge.

FRANCISCO RENDON.
JUAN MANUEL CHIRINOS.

21 EX. 4.—*Juan Cayetano Lobato, grant No. 103.*

[Transcript and translation of Exhibit No. 4, that being the original testimonio of grant. Copy of archive 445. Referred to in printed record, pages 87, 88, and 89.]

PETITION FOR GRANT.

SOR. GOVENOR Y CAPPN. GENL.:

Juan Cayentano Lobato, soldado de este real castillo de la villa de Santa Fe, puesto a los pies de la grandesa de V. S. en toda forma que el dro. me permite aya lugar qual me convenga, y digo que por quanto tengo familia cresida y ester incomodo, y no tener un pedaso de tierras para poder sembrar para mantenar mis obligaciones, causa esta que me presisa buscar un pedaso de tierras y aviendo ayodo uno el qual

registro que esta de la otra banda del rio asi arriba algo montuoso, que sus linderos son los sigaientes: Por el oriente lindan con un camino caratero que sale de la casa del capitan Manuel Thenorio, por el poniente, con un camino que va para Pecos; por el norte, con tierras de Luis de Armenta, y por el sur, con un arroyo que llaman de piedra; dho. pedaso de tierras lo pide, por merced en nombre del Rey mi amo (que Dios gue.) a. V. S. pido y suplico ni lo de que resive bien y mered., y de consedermelo se me de la posecion rl. Asi lo espera mi mucho confianza, y juro en divida forma no ser de malisia este escrito, &c.

JUAN CAYETANO LOBATO.

AUTO.

En la villa de Santa Fe, capital de este reino de Nuevo Mejico, en veinte y dos dias del mes de agosto del uno de mil settes. cuarenta
22 y dos años, yo, el Thente. Coronel Dn. Gaspar Domo. de Mendoza, governador capitan genl. del dho. reino, visto el pretescrito del suppte. en el devia mandar y mande al Cappn. Anto. de Ulibarri, alcalde mar. de dha. villa, le ponga en poscon. de dhas. tierras, las que en nombre de Sus Magestad (Dios le garde), le ago merced para si, sus hijos y herederos en mayor dro., previniendo en su data las sircunstancias y requisitos necesarios, linderos y medida para la mejor inteligencia del posecedor; asi lo probei y mande y firme con los testts. de mi asisten'a el la firme costumbrada por la notoria, falta de escrivno. real y puco. que no le ay, en el papel comu' por no correr el sellado en estas partes, de que doi fee.

GASPAR DOMINGO DE MENDOZA.

JUN. PHE. DE RIBERA.

POSECION.

En la villa de Santa Fe, en veinte y seiz del mes de agosto del año mil setesintos y cuarenta y dos, yo, el Cappn. Antto. de Ulibarri, alcalde mayor de esto dha. villa, digo que por decreto del Señor Teniente Coronel Don Gaspar Domingo de Mendoza, gover. y cappn. gnl. de este reino, su fecha veinte y cuatro del presente mes, pase a las tierras que sita Juan Cayentano Lobato en su escrito, y estando en ellas lo coji de le mano, lo pase dhas. tierras, arranco sacate, tiro piedras, dio boses diciendo viva el rey de España mi señor; y son sus linderos por la parte del oriente un camino real que sale de la casa del Capitan Miguel de Coca, para el norte (monte)?, por el poniente con tierras de Luis Armenta y de Antto. Domingues, por el sur el arroyo de las piedras, por el norte con tierras de Manuel Tenorio, y para que coste en todo tiempo esta posecion lo
23 autorise yo, dho. alcalde mayor, autuando por receptoria a falta de escribano publico y rl., que no lo hay en este reino, con testigos infraescriptos de mi asistencia, en el presente papel por no correr de ningun sello en estas partes, de que doi fee.

ANTTO. DE ULIBARRI,
Juez Receptor.

Ao.: GREGORIO GARDUNO.
ANTONIO FELIS SANCHES.

Concuerda este testimonio con su original a que me remito el qual para en este superior govierno en el archivo va sierto verdadero, y a lo ver sacar fueron testigos vstrumentales Felipe Tafoya y Francisco Rendon, ambos besinos desto villa de Santa Fe; asi lo actue y firme por resetoria con los testigos infrascriptos de mi asistencia a falta de escribano publico y real, que no lo ai en este reyno ni en doscientos leguas en contorno, en el presente papel comun por no corer de ningun sello en estas partes, de que doi fee.

En testimonio de verdad hago mi firma publico acostumbrada.

ANTONIO DE ULIBARRI,
Juez Resepetor.

Ttgo.: GREGORIO GARDUNO.

24 [Translation of the foregoing testimonio and deed endorsed. Referred to in printed record, pages 87, 88, and 89.]

PETITION.

GOVERNOR AND CAPTAIN-GENERAL:

Juan Cayetano Lovato, soldier of this royal castle of Santa Fe, placed at the feet of your greatness in every form of right to me pertaining and state: What whereas I have a large family, and being unaccommodating, not having a piece of land to be cultivated to support my obligations, on which account I am compelled to look for a piece of land, and having found one, I register the same, which is on the other side of the river, up above, covered with timber, which boundaries are as follows: On the east is bounded with a wagon road that starts from the house of Cap't Manuel Tenorio; on the west with a road that goes to Pecos; on the north by lands of Luis de Armenta, and on the south with an arroyo called de Piedra; said piece of land I ask as a grant in the name of the King, my master (whom may God preserve). To your honor I ask and request to give it to me, from which I shall receive good and grace; and should it be granted me, that I shall be put in royal possession. This I hope, and I swear in due form not to act through malice in this writing, &c.

JUAN CAYETANO LOVATO.

GRANT.

Decree. At the village of Santa Fe, capitol of this Kingdom of New Mexico, on the twenty-second day of the month of August, in the year seventeen hundred and forty-two years, I, the lieutenant-colonel Dn. Gaspar Domingo de Mendoza, governor and captain-general of
25 said Kingdom, having seen the present writing of the petitioner, I should command and did command Captain Antonio de Ulibarri, alcalde mayor of said village, to place him in possession of said land, of which, in the name of His Majesty (God preserve him), I make him a grant for himself, his children, and heirs in the best right appearing on its data, the circumstances and requisites necessary, boundaries and measurements for the best intelligence as possessor; thus I provided, ordered, and signed with those of my attendance in the usual form, for

the notorious lack of royal or public notary, there being none, and in common paper, there being no stamped in these parts. To which I certify.

GASPAR DOMINGO DE MENDOZA.

JUAN PHELIPE RIVERA.

ACT OF POSSESSION.

At the village of Santa Fe, on the twenty-sixth day of the month of August, seventeen hundred and forty-two years, I, Captain Antonio de Ulibarri, alcalde mayor of this said village, say, that by the decree of Lieutenant-Colonel Dn. Gaspar Domingo de Mendoza, governor and captain-general of this Kingdom, dated the twenty-fourth day of the present month, I went to the land mentioned by Juan Cayetano Lovato in his writing, and being thereon, I took him by the hand, walked him over said land; he plucked up grass, threw stones, and shouted, saying, "Long live the King of Spain, my lord." The boundaries are: On the east a public road that starts from the house of Captain Miguel de Coca to the mountains; on the west (north) by lands of Luis de Armenta,
and of Antto. Dominges; on the south, the arroyo de las Piedras;
26 on the north, lands of Manuel Tenorio; and that it may so appear
at all times of this possession, I, said alcalde mayor, acted as special justice for the lack of public or royal notary, there being none in this Kingdom, with the undersigned witnesses of my attendance, in the present paper, there being none stamped in these parts. To which I certify.

ANTTO. DE ULIBARRI,
Juez Receptor.

GREGORIO GARDUNO.

This testimonio I have compared with its original, which I have filed in the archives of the Supreme Government; and those who as instrumental witnesses saw me do it are Felipe Tafoya and Francisco Rendon, both residents of this town of Santa Fe. So I do and sign as acting judge with the undersigned as my assisting witnesses, for lack of a royal notary public, there being none for 200 leagues around in this Kingdom, and on this plain paper, there being none of the sealed in these parts. Which I certify, and in testimony of its verity I make my accustomed public signature.

ANTONIO DE ULIBARRI, [RUBRIC.]
Juez Preceptor.

GREGORIO GARDUNO.

27 *Deed, dated March 21, 1771, endorsed upon the foregoing testimonio of grant to Juan Cayetano Lobato.*

En la villa de Santa Fe, en beynte uno de marso de mil setecientos setenta y un años, ante me, Dn. Phelipe Tafoya, alcalde mayor, captn. á guerra desta, ella y su jurisdiction, á pedimento de Juan Cayetano Lobato, pareció presente Phelipe Garduno enpoderado en para una suerte de tierras que el Rey nuestro Sor. dió en merced á Antonio Dominguez, en el mismo tiempo que su Magestad le dió la antesedente merced á Juan

Calletano Lobato y respecto á que, por el alcade mayor que en aquel tiempo metió en posecion á los dos mercenados, se padesció el llero de que por el biento sur dejó comprendidas las dos partes en un mismo lindero, por cuyo motibo que la querella berbal ante mi de Juan Calletano Lobato a fos de que paresiera en juicio el citado Garduno, y estando todos juntos en el mismo paraje presente, se abinieron los dhos. herederos de Juan Cayetano Lobato á comprarle, para enderezar su lindero al biento sur lo mismo que era aullo al citado Garduno lo que pasó ante mi, y dijo el dho. Garduno que las daba y dió el pedaso de tierra que se alegaba o los dhos. herederos de Juan Cayetano Lobato por el precio y cantidad de cinquenta pesos del corriente de la tierra, los que confiesa dho. Garduno haber recibido de mano de los dhos. herederos á su satisfacion, de que se da por contento, satisfecho y pagado, que no bale mas el citado pedaso de tierra y que si algo mas bale, de la demasia le ase gracia y donacion mera, pura, perfecta e inrevocable que el dro. llama intervivos, y que renuncia en los dhos. todo el derecho que en dhas. tierras tenia, y declaró dho. Garduno que con la benta de este pedaso de tierra que de la antesedente merced de Juan Cayetano Lobato en su fuersa y bigor y en sus legítimos linderos el siguiente estará aora y siempre sin que por el dho. Garduno ni sus herederos se les ponga pleyto, pues para ello renuncia todos (nine lines illegible) judicial e yo, dicho alcalde mayor, digo que interponio y interpuse por dro. me es conferido; doy fee conosco al otorgante, que no firmó por no saber; firmélo yo, dho. alcalde mayor, co/ los de mi asistencia, con quienes autuo á falta de escribano que no lo ay en este Reyno de ninguna clase; doy fee.

PHELIPE TAFOYA. [RUBRIC.]

JOACHIN SAIZ. [RUBRIC.]
ANTONIO JOSEPH TAFOYA. [RUBRIC.]

28 [Translation of the foregoing deed of March 21, 1771, from Felipe Garduno to Juan Cayetano Lobato for the Dominguez grant, said deed being endorsed upon the grant made to Juan Cayetano Lobato, of date Aug. 22, 1712, Archive No. 445.]

At the town of Santa Fe, on the 21st day of March, 1771, before me Dn. Phelipe Tafoya, chief alcalde and war captain of this jurisdiction, at the request of Juan Antonio Lobato, personally appeared Phelipe Garduno, possessing a piece of land that the King, our master, gave as grant to Antonio Dominguez, at the same time that His Majesty gave the beforementioned grant to Juan Cayetano Lobato, regarding which the chief alcalde at that time placed in possession the two grantees, in error wherein it appears that by mistake upon the south he included the two parts within the same boundary, for which cause Juan Cayetano Lobato verbally brought suit against the said Garduno, and he and the heirs of said Juan Cayetano Lobato all being together, the said heirs of Juan Cayetano Lobato agreed to buy said land in order to settle the question of the southern boundary, which belonged to said Garduno, and in my presence said Garduno declared that he granted and sold the piece of land in dispute to the said heirs of Juan Cayetano Lobato for the sum of fifty ($50) dollars ordinary money of the land, which said Garduno confessed to have in hand received from said heirs to his satisfaction, with which he remains contented, satisfied, and paid; that said land i/ not worth more, or if it be worth more, he makes gift and donation of

the same, perfect and irrevocable, what the law calls intervivos, and he renounced to said parties all the right in and to said lands that he had and the said Garduno declared that with the sale of this piece of land the said grant to Juan Cayetano Lobato completes its legal boundaries, now and forever, without the said Garduno nor his heirs bringing suit for it, since he renounces all (eight lines illegible) judicial, and I, said chief alcalde, say I would interpose and did interpose my authority and judicial decree as conferred upon me by law. I certify that I know the party, who does not sign because he does not know how. I, the said chief alcalde, with the witnesses with whom I act for want of public notary, there being none in this Kingdom.

To which I certify.

PHELIPE TAFOYA.

Witnesses:

JOACHIN SAIZ.

ANTONIO JOSE TAFOYA.

[Here follows map marked p. 29.]

30 *Archive No. 345. Deed of conveyance from Antonio Dominguez to Felipe Garduno, 1750.*

[Referred to in printed record, page 89.]

En la villa de Sta. Fe, en veyte de Abril en mil sete ziens. y zinquenta as., ante mi, Dn. Joseph de Bustamte. Tagle, alce. mayor y cappn. a guerra, en ella y su jurisdizion, paresio Antonio Dominguez, vecino de dha. villa, a quien doi fee conozco, y dijo: que daba y dio, en venta rl., a Phe. Garduno, un sitio de tierras que tiene en esta villa, contiguo a tierras de Luis de Armenta y de Juan Lovato, havido por merced rl. de Dn. Gaspar Domingo de Mendoza, govr. y cappn. genl. que fue de dho. reino; y que se lo bende en precio y quantia de trezientos y sesenta ps. que confiesa haver rezivido a su contento y satisfazion, y que se da por contento y pagado, y que si mas bale o baler puede, le aze gracia y donacion a el dho Phe. Garduno pura, mera, e ynrebocable, que el derecho llama enterbivos, que renuncia las leyes de la non-numerata pecunia, prueba, y pago, las de duobus res derendi y autentica prefide lustoribus las leyes qe. llaman cumunidad, que ablan sobre la mitad de el justo prazio, y que se lo da libreo de zenso, tributos y otras ypotecas, para que las goze con libre, franca y general administracion, y que sus linderos son por el horiente, un camino carretero que ba a el Ojito; por el poniente, el camino de Pecos; por el norte una acequia que debide las tierras de Juan Lobato, y por el sur una canada que le llamen de los Pinos; que le zede y traspasa el referido Dominguez, a el dho. conprador, la propiedad, azion, y senorio que a dhas. tierras tenia saver que no le pondran pleito ni demanda, el referido Antto. Dominguez, ni sus hijos ni suzesores, y que si acaso se lo pusieron que no sean oydos en juizio ni fuera de el y que saldra a la defensa asta dejarlo en quieta y pacifica posesion; y da poder a las justizias de Su Magd., y en espezial a las de esta villa, para que con todo rigor de derecho le compelan y aprepruen a el cumplinto. de esta escriptura, como si fuera por sentenzia definitiva de

juez competente, pasada con autoridad de cosa juzgada, para, cuios sancamente obliga su persona y vienes, avidos y por aber, renuncia la Ley Antigua, fecha nombala, su propio fuero, domezilio y vecinidad, la ley si conbenerit, de jurisdizione omnium ludicum, y todas las demas de su favor y defensa. Todo lo qual ortogo ante mi y testigos de asistencia, que ynterpuse mi autoridad y judizial decretto, y lo fimo commigo, dho. alcalde mayor actuando por rezeptoria a falta de escno. publico ni rl., que no lo ai en este reino, y en el presente papel por no correr de ningun sello en este pays. Doy fee.

JOSEPH DE BUSTAMTE. TAGLE.

ANTTO. DOMINGUEZ.

Asst.:

PHE. TAFOYA.

JUACHIN MARTIN.

31 [Archive No. 345. Translation of foregoing deed from Anto. Dominguez. Referred to in printed record, page 89.]

In the town of Santa Fe, on the 20th of April, in the year one thousand seven hundred and fifty, before me, Joseph de Bustamente Tagle, chief justice and war captain in said town and its jurisdiction, appeared Antonio Dominguez, resident of said town, whom I certify to know and is worthy of confidence, and said that he had sold and did sell at royal sale to Phelipe Garduno a tract of land he has in this town contiguous to lands of Luis de Armenta and of Juan Lobatto, had by royal grant made by Gaspar Domingo de Mendoza, governor and captain-general at the time of said Kingdom, and that he sold the same for the price and sum of three hundred and sixty dollars, which he acknowledged to have received to his full satisfaction, and that he remains content and paid; and if the lands are or may be of more value he makes gift and donates to the said Phelipe Garduno, free, full, and irrevocable, what the law calls intervivos, "que renuncia las leyes de non-numerata pecunia, prueba y pago, las de duobus res derendi y autencia prefide lustoribus las leyes qe. laman comunidad," which treat as to one-half of the just price, and that he gives the same free of taxes, tributes, or other liens, to the end that they may be used free, open, and in full control. And the boundaries are: On the east, a wagon road that goes to the Little Spring; on the west, the road to Pecos; on the north, an acequia that crosses the land of Juan Lobatto; and on the south, a canada that is called Los Pinos; and the said Dominguez cedes and transfers to the said purchaser the property, holding, and ownership which to said lands he had, it being understood that no suit or demand shall be brought by the said Antto. Dominguez, nor by his heirs or successors; and that in the event of a suit being brought they shall not be heard in court or out of the same, but shall defend this title until said purchaser is left in quiet and peaceable possession. And he empowers the judges of His Majesty, and especially those of this town, that with all the vigor of the law they will compel compliance with this deed, as if it had been finally determined by order of a judge competent jurisdiction, after due hearing being had. To which end he obliges his person and the goods he now or may hereafter have, renouncing the old law, "fecha nombula su propio fuero domezilio y vecinidad, la ley si conbenerit de jurisdizione omnum ludi-

cum," and all the others in his favor and defence; all of which was acknowledged before me and assisting witnesses, and that I interpose my authority and judicial decree. And he signed with me, said chief justice, acting as delegate, for want of royal or public notary, of which there is none in this Kingdom, and on this present paper, there being none stamped in this country.

To which I certify.

JOSEPH DE BUSTAMANTE TAGLE. [RUBRIC.]
ANTONIO DOMINGUEZ.

Assta.: PHE. TAFOYA. [RUBRIC.]
" JUACHIN MARTIN. [RUBRIC.]

32 *Archive No. 85. Grant to Juan Leon Brito, August 20, 1742.*

[Referred to in printed record, page 89.]

SR. GOVERNADOR Y CAPPN. GENL.:

Santa Fe, augusto 18, 1742, informe d. seco. notr. el lugar que tiene el suppte. en este escrito, para proheberlo que conbenga.

MENDOZA.

Juan de Leon Brito, vecino de la villa de Santa Fe, puesto a los pies de la grandeza de Vss. y en la de forma quel Dios me permite a, y ajusgar quel me conbenga; y digo, Senor, que por quanto me beo cargado de obligaciones que me precisan mantenerlas y no tener tierra suficiente por ser costa la que tengo, he sentido por bien de haver registrado un dezazo de tierras el qual esta de la otra banda de el rio que hace canada, y sus linderos son los siguientes: Por el oriente lindan con el camino rl. que ba para los Pecos, por el poniente tambien lindan con otro camino que tambien ba *ha* Pecos, por el sur con tierras de Luis de Armenta y por el norte con tierras del Capn. Manl. Thenorio, las quales tierras las pido en nombre de Su Magd. (que Dios gue.) se me den por merzd.

A Vds. suplico con todo rendimiento me las conseda, que soy un pobre, y de consedermelas se me de la posesion rl. que ricibre vien y merzd. Juro en toda forma no ser de malizia este escrito, &c.

JUAN DE LEON BRITO.

Visto y reconocido las tierras que esta parte pide digo que tienen lugar por aber registrado i reconocer ser del Rey mi Senor (que Dios guarde), con que puede Vsa. acer lo que fuere de justicia que sera como siempre lo mejor y para que coste lo fime en diez y nueve; de *de* mill siete cientos quarenta y dos, &a.

ANTTO. DE ULIBARRI.

En la villa de Santa Fe, en veinte de agto. del ano de mill siete cientos cuarenta y dos anos, yo, el thte. coronel governador y capn. genl. de este Reyno de Nuebo Mexico, Dn. Gaspar Domingo de Mendoza
33 deveria *h*andar y mande en virtud del informe en Cappn. Antonio de Ulibarri, alcalde mayor de la dha. billa, ponga en posesion al suppte. en este escrito, de la tierra que pide para que en nombre de Su

Magd. (Dios le gue.) la posca y cultibe. Asi lo probey, mande y firme con los de mi asistencia, con la actuacion acostumbrada por las circunstancias precedentes del dho. reyno. Bale.

Dn. Gaspar Domo. de Mendoza.

Joseph de Terrus.
Juan Phe. de Rivera.

En la villa de Santa Fé, en beinte dias del mes de agto. de mill siete cientos quarenta y dos anos, yo, el Capn. Antto. de Ulibarri, alcalde mayor de esta villa, en cumplimiento del orden del Senor Coronel Dn. Gaspar Domingo de Mendoza, governador y capn. genl. de este reyno, fui yo, dho. alcalde mayor, a las tierras que esta parte sita, y le coxi de la mano y lo pasie por las dhas. tierras, aranco sacate, tiro piedras, dio voses, diciendo viva el Rey mi Senor (que Dios gue.), Don Phelipe Quinto, siendo testigos desta posesion rl. Tomas de Sena y Cayetano Lobato. Asi lo actue con los testigos de mi asistencia a falta de escribano publico y rl. que no lo ai en cote Reyno en el presente papel por no correr de ningun sello en estas partes, de que doy fee.

Antonio de Ulibarri,
Juez Receptor.

Gregorio Garduno.

34 [Translation of foregoing gran'. to Juan de Leon Brito. From archive No. 85. Referred to in printed record, page 89.]

PETITION.

Sr. Governor and Captain-General:

I, Juan de Leon Brito, resident of the town of Santa Fe, appear before your highness in due form, and state that whereas I find it hard to make a living, as I have not land enough, that which I have being so small, I have registered a piece of land upon the other side of the river, in a little valley (canada), and its boundaries are as follows: On the east the highway that goes to Pecos; west by another road which also goes to Pecos; south by lands of Luis de Armenta, and on the north by lands of Capt. Manuel Thenorio, which land I request in the name of His Majesty (God preserve him) to be given me as a grant. With due submission, I ask your highness that you will grant to me the grant and royal possession. In due form I swear that this is not in prejudice, etc.

Juan de Leon Brito.

ORDER OF REFERENCE.

Santa Fe, *Aug. 18, 1742.*

The alcalde mayor will examine and report as to the place the petitioner has described in this application as evidence of what should be done.

Mendoza.

REPORT OF ALCALDE.

I have seen and examined the land the petitioner asks for, and report that the grant may be made for the best interest of His Majesty.

June 19, 1742.

Antonio de Ulibarri.

GRANT.

In the town of Santa Fe, Aug. 20, 1742, I, Don Gaspar Domingo de Mendoza, lieutenant col., governor and capt. genl. of this Kingdom of New Mexico, upon the foregoing information ought to order and do order Capt. Antonio de Ulibarri, alcalde mayor of this said town, to place the petitioner in possession of the land he asks for, so that in the name of His Majesty (God preserve him) he may possess it and cultivate it. So I order and command and sign, with my attending witnesses, as provided by law of this Kingdom in such cases made and provided.

Dn. GASPAR DOMINGO DE MENDOZA. [RUBRIC.]

JUAN PHELIPE DE RIBERA.
JOSEPH DE TERRUS.

35 POSSESSION.

In the town of Santa Fe, the 20th day of August, 1742, I, Captain Antonio Ulibarri, alcalde mayor of this town, in fulfillment of the command of Lieutenant-Colonel Gaspar Domingo de Mendoza, governor and captain-general of this Kingdom, went to the land in the petition described and took him by the hand and led him over said land, and he plucked up grass and cast stones, shouting, Long live the King, my lord (God preserve him), Phelipe the Fifth; the witnesses to which royal possession were Tomas de Sena and Cayetano Lobato, and so I acted with my assisting witnesses for lack of a royal notary public, of which there is none in this Kingdom, and on this ordinary paper, there being no sealed paper in these parts.

To which I certify. ANTONIO DE ULIBARRI,
Acting Judge.

Witness: GREGORIO GARDUNO.

36 *Grant to José Durán, August 16th, 1743. Archive No. 237.*

[Referred to in printed record, page 89.]

SOR. GOVERNOR Y CAPPN. GENL.:

Joseph Duran, vezino de la villa de Sta. Fe, puesto a los pies de la grandesa de Vss. en toda forma que el dro. me permito aiga lugar y al mio conbenga, y digo que por quanto me beo cargado de obligasiones que me presisa mantenerlas y no tener un pedaso de tierras en que poder sembrar, causa esta de que rrexistro un pedaso de tierras que esta de la otra vanda de el rio, que es llermo y despoblado, que sus linderos son los siguientes: por la parte de el oriente lindan con tierras de el Cabo de escuadra, Juan Cayetano Lovato, por la parte de el poniente lindan con un camino que ba a Galisteo, por el norte con tierras de Juan Antto. Fores (Flores) y Antto. Domingues, y por el sur asta el alto de el arrollo de los Chamisos; dho. pedaso de tierras pido y suplico con todo rendimiento.

A. Vss. me lo de por merzed, en nombre del Rey, mi amo (que Dios guarde), que rresevire todo bien, y de conzederseme se me de la posesion rl. en nombre de Su Magd., y juro a Dios y a la Sta. Cruz no ser de malisia este escrito, &a.

JOSEPH DURAN. [RUBRIC.]

AUTO.

En la villa de Sta. Fe, capital deste Reyno de Nuebo Mexico, en diez y seis dias del mes de agto. de ano de mil settetos. cuarenta y tres, yo, el Thente. Coronel Dn. Gaspar Domingo de Mendosa, governor y cappn. general de dho. y sus probinseas, por el Rey Nro. Senor (Dios le gue.) bisto el prete. escrito que presento ante mi el suppte. firmado a la bueta, devia mandar y mande al Cappn. Anto. de Ulibarri, alcalde mayor de dha. billa, ponga en posesion real al pretendiente Jph. Duran, dandole la
37 merced que sita en su pedimto. con las circunstancias y calidades que prebienen las reales ordenes y en particular la de sin perjuicio de tersero, para que en conformidad de lo expresado la mantenga en nombre de S. M. para si, sus hijos, erederos y sucesores, a mayor derecho; asi lo probey, mande y firme con los de mi asistencia y con la actuarn. acostumbrada del mencionado reyno. Bale.

Dn. Gaspar Domingo de Mendoza. [rubric.]

Joseph de Terrus. [rubric.]
Juan Phl. de Rivera. [rubric.]

POSSESION RL.

En la villa de Sta. Fe, en beinte y ocho dias del mes de agosto, del ano de mil setecient*e*s y quarenta y tres, yo, el Capn. Antto. de Ulibarri, alcalde mayor de dha. villa, en cumplimiento de el auto de merced que el Senor teniente Coronel Dn. Gaspar Domingo de Mendosa, governador y capn. general deste reyno, yse a Joseph Duran, vecino desta referida villa, por petision que presento ante dho. senor governador, quien le consedio su pedimento y en el manda q. pase yo, dho. alcalde maior, a metterlo en posesion real, lo que execute yendo a las tierras que sita en dho Joseph Duran en su escrito, en compania de dos testigos que le fueron Carlos Dias Blea y Tomas Lopes Holgin, tambien becino de dha. villa, lle*d*o primero a la casa de Juan Antto. Flores, a quien no alle en su casa, y abiendome ensenado la mersed que tiene bisto, y reconosido sus linderos que esta parte pide, alle ser asta al aroio de los pinos, y esta parte pide del aroio para el sur, y que no le prejudica, coxi a el referido Joseph Duran de la mano y lo pasie por dhas. tierras, aran*z*o sacate, tiro piedras, dio boses, disiendo biba el Rey de Espana, mi Senor Dn. Phelipe quinto (que Dios guarde muchos anos), sellanando los linderos que son por la parte del oriente el camino real, que ba para los Pecos y por la parte del
38 poniente un camino que ba para el pueblo de Galisteo, por la parte del norte el aroio de los Pinos que esta y llega la mersed de Juan Antto. Flores, y por la parte del sur asta donde esta una Santa Cruz en la cumbre de las lomas que dibisa el aroio de los Chamisos, y dho. posesion real la recibio quieto y pacifico, sin contradicion alguna; y para que en todo tiempo coste, lo firme de mi nombre actuando por reseptorio por la notoria falta de escribano publico y real, que no lo ai en este reyno, con dos testigos de mi asistencia; en el presente papel por no correr de ningun sello en estas partes, de que doi fee.

Antonio de Ulibarri, [rubrica.]
Juez Receptor.

Assa.: Gregorio Garduno. [rubrica.]
" Antonio Duran de Armijo. [rubrica.]

Certifico que el antecedente documento o merced fue enrregistrado por mi, hoy el dia 19 de agosto de 1873, copiado del original mismo.

LUCIANO BACA,
Escribano.

39 [Translation of foregoing grant to José Durán. Referred to in printed record, page 89.]

SOR. GOVERNOR AND CAPT. GENL.:

I, Joseph Duran, resident of the town of Santa Fe, appear before your majesty and in due form of law state that, whereas I have to maintain my family and have no piece of land upon which I can plant, I have registered a piece of land, which is upon the other side of the river, vacant and unsettled, and its boundaries are the following: On the east it is bounded by the land of Juan Cayetano Lobato; on the west by a road that goes to Galisteo; on the north by lands of Juan Antonio Flores and Antonio Dominguez, and upon the south to the alto of the arroyo de los Chamisos, which piece of land I ask with all humility that your highness will give to me as a grant in the name of my lord the King (God preserve him), and that you will grant me royal possession in the name of His Majesty, and I swear to God and upon the Holy Cross that this is not made in prejudice, &c.

JOSEPH DURAN. [RUBRIC.]

DECREE.

In the city of Santa Fe, in the Kingdom of New Mexico, on this 16th day of the month of August, 1743, I, Lieutenant-Colonel Dn. Gaspar Domingo de Mendoza, governor and captain-general of the said Kingdom and its provinces, by grace of the King, our lord (God preserve him), having examined this petition as presented to me by the above-subscribed petitioner, I ought to order, and do order, Capt. Antonio de Ulibarri, alcalde mayor of the said town, to place in royal possession said Joseph Duran, giving him the grant described, as provided in the royal ordinances, especially that providing against prejudice to third parties, so that he may maintain himself, and he shall hold it in the name of His Majesty for himself, his children, his heirs, and successors in full right. So I provide, order, and sign, with those of my assistance, according to the custom of said Kingdom.

DON GASPAR DOMINGO DE MENDOZA. [RUBRIC.]

JOSEPH DE TERRUS. [RUBRIC.]
JUAN JOSEPH DE RIBERA. [RUBRIC.]

ROYAL POSSESSION.

In this town of Santa Fe, August 28, 1743, I, Capt. Antonio de Ulibarri, alcalde mayor of the said town, in fulfillment of the decree of grant which Lieutenant-Colonel Don Gaspar Domingo de Mendoza, gov. and capt. genl. of the said Kingdom, has made to Joseph Duran, resident of said town, upon the petition which he presented to the said governor, who granted the petition, and of the order given me, said alcalde mayor, to

put him in royal possession, I accordingly, going upon the lands described by said Joseph Duran in his petition, in company with my two witnesses, Carlos Dias Blea and Thomas Lopes Holgin, citizens of said town, we first went to the house of Juan Antonio Flores, who was not in his house, and there I pointed out the grant described and its boundaries which said party asks, which are to the arroyo de los Pinos, to which arroyo Flores claims on the south, and without prejudice to him I took by the hand Joseph Duran and passed over said land, and he pulled up grass, cast stones, and shouted, Long live the King of Spain, my lord, Feliphee
40 Fifth; God preserve him many years; and the boundaries are: On the east, the highway that goes to Pecos; and on the west, a road that goes to the pueblo of Galisteo; on the north, the arroyo de los Pinos, which reaches to the grant of Juan Antonio Flores, and on the south, to where there is a holy cross on the ridge of the hills overlooking the arroyo de los Chamisos, and said royal possession he received without opposition on the part of anyone.

And that in all time it may so appear, I signed my name, with those of my assistance, acting in the notorious absence of a public or royal notary, of which there is none in this Kingdom, with the two witnesses of my assistance, and on this present paper, because there is no stamped paper current in these parts.

Which I certify.

ANTONIO DE ULIBARRI, [RUBRIC.]
Acting Judge.

GREGORIO GARDUNO, [RUBRIC.]
Assisting Witness.

ANTONIO DURAN DE ARMIJO, [RUBRIC.]
Assisting Witness.

41 *Grant to Marquez y Padilla, Aug. 24, 1742.*

[Reported No. 74 in surveyor gnl.'s office. Referred to in printed record, pages Nos. 57, 58, 68, 80, and 89.]

SOR. GOVERNOR Y CAPPN. GENERAL:

Bartolome Marques y Francisco Padilla, vezinos de la villa de Sta. Fe, unidos y conformes, puestos a los pies de la grandesa de V. S. S. en toda forma que el dro. nos permite, aya lugar qual nos conbenga y desimos que hayamos yncomodos de tierras, y no tener hadonde poder sembrar para mantenir nuestras obligasiones como tan presiso que es, con cuia hatension rexistramos un pedaso de monte que tiene algunos pedasitos donde podemos sembar alguna cosa de mais que el qual esta de la otra vanda de el rio, y sus linderos son los siguientes: Por el oriente lindan con linderos de Manl. Truxillo, por el poniente con tierras del Cabo de Esquadra Cayetano Lobato, por el norte tierras del Capn. Antto. Montoya, por el sur el harrollo de los Chamisos; lo qual pedimos por merzed, en nombre del Rey nuestro amo (que Dios gue.), sea zervido la grandesa de V. S. S. de consedernoslo y de zer asi se nos de la pos'cion rl. que rresibiremos todo vien y juramos no ser de malisia, &c.

BARTOLOME MARQUES Y
FRANCO. PADILLA.

AUTTO.

En la villa de Sta. Fe, capital de este Reyno Nuebo Mexico, en beyente cuatro dias del mes de agto. del ano de mil setteso. cuarenta dos, yo, el S. tente. y Coronel Dn. Gaspar Dom. de Mendosa, govrdr. y cappn. general de dho. reyno, bisto el prete. escrito devia mandar y mando al Cappn. Anto. de Ulibarri, alcalde mayor de dha. villa y su jurisdision, ponga en posesion de las tierras que piden los supples. en este para que en nombre de S. M. (Dios le ge.), las posean, cultiben y benefisien para se, sus hijos, exederos y sucesores a mar. derecho en los mersedes reales; asi lo probey, mande, firme con los testes. de mi assistena. con la actuasion acostumbrada por la notoria falta de escribano real y pubeo., que no lo ai, y en el preste. papel por no corror de sello en estas partes. Bale.

DON GASPAR DOMO. DE MENDOSA.

AUTTO. FELIX SANCHES.

En la villa de Santa Fe, en treinta dias del mes de agosto del ano de mil setecientos y cuarenta y dos anos, yo, Autto. Hulivarri, alcalde mayor y cappn. a guerra desta dha. villa, dixe que por horden del Senor Teniente Coronel D. Gaspar Domingo de Mendoza, govr. y capn. gl. deste reyno, pase a las tierras que piden Bartolome Marques y Franco. Padilla, y los coxi de la mano y las pasie ambos a dos; arrancaron sactae, tiraron piedras, dieron boses disiendo viba el Rey Ntro. Senor muchos anos, D. Phelipe Quinto, senalandole los linderos, que son por la parte del oriente el arroio de la tierra blanca, por el poniente un camino rl. que ba
42 para los pecos en donde lindan las tierras del Cabo de Esquadra Cayetano Lovato, por el sur arroio de los Chamisos, el norte las lomas altas, linderos del Cappn. Antonio Montoya, ya difunto, y fueron testigos desta posesion rl. Gregorio Garduno y Domingo Brito, ambos besinos desta villa de Santa Fe, y para que coste lo antue y firme yo, dho. alcalde maior antunado por resetoria a falta de escrivano pub. y rl. que no lo ay en este reyno en el presente papel por no corren ningun seno en estas partes, de que doi fee.

ANTONIO DE ULIBARRI,
Jues Receptor.

43 [Translation of foregoing grant to Marquez y Padilla, referred to in printed record, pages 57, 58, 68, 80, and 89.]

PETITION.

His Excellency the GOVERNOR AND CAPTAIN-GENERAL:

We, Bartolome Marquez and Francisco Padilla, residents of the city of Santa Fe, appearing at the feet of your highness in due legal form, jointly and in accord, represent:

That we find ourselves scarce of land and have not where to plant, so as we may discharge our obligations so indispensable, in consideration wherefore we enter a piece of uncleared land, which embraces some small spots where we can plant a small quantity of corn, and which is on the other side of the river, and whose boundaries are the following: On the east it adjoins the boundaries of Manuel Trujillo; on the west, lands of Squadron Corporal Cayetano Lovato; on the north, lands of Captain

Antonio Montoya, and on the south, the Chamisos Arroyo; and we apply therefor as a grant in the name of the lord our King, whom may God preserve, and may your excellency be pleased to grant us the same; and, if so, let the royal possession be given us, whereby we will receive great benefit, and declare this is not in dissimulation, &c.

BARTOLOME MARQUES and
FRANCISCO PADILLA.

DECREE.

At the city of Santa Fe, capital of the province of New Mexico, on the twenty-fourth day of the month of August, in the year one thousand seven hundred and forty-two.

I, Lieutenant-Colonel Gaspar Domingo de Mandoza, and captain-genl. of said province, having examined this petition, should command, and do command, Capt. Antonio de Ulibarri, chief alcalde of said city, and its petitioners herein, so that, in the name of His Majesty (God preserve him), they may hold, cultivate, and improve the same for themselves and their children, heirs, and successors, in full right, observing in doing so the conditions and requisites usual in royal concessions.

Thus I provided, commanded, and signed with my attending witnesses in the usual form, owing to the notorious lack of royal or public notary, there being none, and upon this paper, there being no stamped paper in these parts valid.

GASPAR DOMINGO DE MENDOSA.

ANTONIO FELIX SANCHES.

44 POSSESSION.

At the city of Santa Fe, on the thirtieth day of the month of August, in the year one thousand seven hundred and forty-two, I, Antonio de Ulibarri, chief alcalde and war captain of said town, do declare that, by command of his excellency Lieutenant-Colonel Gaspar Domingo de Mendoza, governor and captain-general of this province, I repaired to the lands applied for by Bartolome Marques and Francisco Padilla, and did them both take by the hand and together led them around, and they plucked up grass, cast stones, and shouted, saying, Many years live Don Felipe Fifth, our lord and sovereign, I designating the boundaries, which are: On the east, the arroyo of Tierra Blanco; on the west, a highway leading to Pecos, where the lands of Squadron Corporal Cayetano Lovato adjoin; on the south, the arroyo of the Chamisos; and on the north, the high hills, the boundary of Captain Antonio Montoya, now deceased, and Gregorio Garduno and Domingo Brito, both residents of this city of Santa Fe, were witnesses to this royal possession.

And that it may so appear, I, said chief alcalde, acting specially, executed and signed this in the absence of a public or royal notary, there being none in this province, on this paper, there being none of any stamp in these parts. To which I certify.

ANTONIO DE ULIBARRI,
Special Justice.

45 *Copy of archive No. 440. Deed of De Coca and wife to Lopez, April 17, 1727.*

[Referred to in printed record, page 89.]

En la villa de Santa Fe, capital de este Reino de la Nueva Mexico, en diez y siete dias del me' de abril de mil y siete cientas y beinte y siete anos, ante mi, el Capn. Diego Arias de Quiros, alcalde mayor y capitan a guerra de dha. villa, pr. Su Magd., paricieron Dn. Miguel de las Begas Coca, marido, y conjunta persona de Dn. Maria Montoya y Lususa Tansyados, dha. mutos y cada uno de por si y por el todo ynsolidario a quienes doi fee conosco, y dijeron que bendian y venden realmente y con efecto, para ora y para siempre, la mas una casa que tienen fabicada, y han vivido en ella en esta villa, y dos pedasos de tierra de sembrar trigo, maiz y legumbres, a Maria Josepha Lopez para que las uso dicha sus hijos erederos y susesores, o quien de ellas de ello tubierra, cuya titulo o razon para que la gozen, puedan vender y enajenar como mias y propias aqguirido con justo titulo en precio y quantia de quinientos ps. que nos ha dado, y emos reconocido juntos y en tabla a nuestra satisfasion sobre que renunciamos la diserla pecunia de su entrega, prueva y por poco mas en ellas se contiene; y yo, la dha. Dn. Maria Montoya, aunque dha. casa esta fabricada en tierras que ube por erencia paterna en dote y los dhos. dos pedazos citados de sembradura lo vendemos yo, y el dho. mi marido, con mi pleno consentimiento sin ser para ello indusida aco ni atenurisada por el dho. ni otra persona por ser en pro y veneficio nuestro i de nuestros hijos de guyo senorio, acsion, dominio y vezindad nos apartamos, y lo sedemos y transferimos en la compradora por la referida cantidad que nos a dado y confesamos ser su valor y precio, y si mas baliere o valer pueda, de la demasia le acemos gracia y donacion pura perfecta e inrevocable que el derecho llama intervivos, y aora ni en ningun tiempo iremos nosotros ni nuestros herederos en contra de esta
46 venta ni nos balderemos de tales del engano aunque no pagado los quatro su y en senal de titulo de dha. casa i tierras le entreganos la donazion que de ellos tenemos, debajo de los linderos que sita, que todo se comprexende, i esta es junta cin la sasa que fabrico Manuel Thenorio, nuestro yerno, en que al presente vive, i las tierras que goza; y dimos a nuestro hijos Franco. y fuera de esta donacion por ser indifierdientes i no comprehenden esta venta ni estan en los linderos que sita, porque segun y como resa la donacion las vendemos y a que ser asi estar segura dha. venta, yo dho. Dn. Miguel de la Begas Coca me obligo, con mi persona y bienes, coido y por haver, y la dha. Da. Maria Montoya con los propios y si leo abiere o mal a nos luego que seamos savidores (loco yeremos?) a nuestra cargo seguiremos asta bejar a la compradora en pacifica posesion; y si acerlo no pudieremos le bolveremos etra casa tan buena, y tierras, o daremos la cantidad recibido y pagaremos las mejoras que ubiere y renunciamos las leyes de la mancomunidad rededevendicatentica presente de fidibuscriber bior duobus endes dey con el la sit convenerit y bemas de nuesrro favor y defensa; e yo, la dicha Dona Maria, por su mayor, renuncio las leyes de los emperadores Beliano Justimiano Senatus poro partidad y demas que favorocen a los mayores nueva y vieja constitusion, de las quales e sido advertido y savi-

dora y de nuestro propio fuero domicilio y vezindad, y lo lei sit cum benevide jurisdicione y nos sometemos a la real justicia de Su Magd. donde fueremos compelidos a que nos apremien a su complimiento como por sentencia, foyada en autoridad de cosa jusgada con serbidano apelado asi lo otorgaron, y firmo conmigo dho. alcalde mayor y testigos de mi asistencia, actuando como juez receptor, por no aver escribano publico ni real el otorgante, y por la dha. su mujer Antonio Montoya, su ermano, y en este papel por no correr el del real sello; doy fee.

ANTONIO MANUEL TENORIO DEBEGAS.
JULIAN MANUEL CHIRINOS.

MIGUEL DE BEGAS COCA.
A ruego de me el otorgante,
ANTONIO MONTOYA.

47 [Translation (arch. 440) of the foregoing deed from Miguel de las Begas Coca and his wife, Dona Maria Montoya, to Maria Josepha Lopez, of date April 17, 1727. (See Exhibit 2, the petition and possession.) Referred to in printed record, page 89.]

In the town of Santa Fe, capital of the Kingdom of New Mexico, on the 17th of April, 1727, before me, Capt. Diego de Arias, alcalde mayor and war captain of said town, for His Majesty, appeared Don Miguel de las Begas Coca, husband, and his wife, Dona Maria Montoya, each of whom I certify I personally know, and they declare that they had sold, and did sell now and forever, a house they (Coca and wife) had built and have lived in in this town, and two pieces of land, planted in wheat, corn, and vegetables, to Maria Josepha Lopez, for herself, her heirs, and representatives, for the price of $500, to us paid; and I, the said Dona Maria Montoya, declare, although said house is built upon lands which I received as inheritance from my father, that I sell it and the said two pieces of planting land, and I and my husband sell to him, with my full consent, without being induced or urged so to do by my husband or other person.

The house and lands we hereby sell are adjoining the house our son-in-law, Manuel Tenorio, built and now lives in, and the lands he and my daughter, Francisca, hold from us as a gift, and which are independent of and are not included in the boundaries of the land we hereby sell.

They so agreed as adjudicated and signed with me, said alcalde mayor as acting judge, with my assisting witnesses, there being no public or royal notary, and the vendor, the said wife, acting by Antonio Montoya, her brother, and upon this common paper, there being no sealed paper current.

Which I certify.

DIEGO ARIAS DE QUIROS.
MIGUEL DE BEGAS COCA
(And for his wife, the seller.)
ANTONIO MONTOYA.

Witness:
JULIAN MANUEL CHIRINOS.

48 *Testimonio of grant to Joseph Antonio Lucero, September 20, 1732.*

[Reported No. 147 in surveyor-genl.'s office. Referred to in printed record, pages 59 and 60.]

PETITION.

Sr. Gov. y Capt. Genl.:

Joseph Antonio Lucero, vesino deste villa de Santa Fe, paresco ante la grandesa de V. Sa. en la mexor forma que sia lugar y al mio conbenga, i digo que cuanto tengo bisto un pedaso de tierra, que cabran en el dos fanegas de mais de sembradura, en esta banda de el rio desta dha. villa i no perteneser a persona alguna i no tener yo en que poder me esplaiar en la siembra para el mantenimiento de mis hobligasiones, e resulto pedir dha. tierra a V. Sa. en nombre de Su Magestad (Q. D. G.) siendo sus linderos los siguientes: Por la parte de el horiente un aroio que cae a el rio, por la parte del sur con tierras del Capt. Manuel Tenorio, por la parte del poniente con otro arroio que baja por una calera, por la parte del norte con un sero que llaman el Sero Gordo, para lo qual a V. Sa. pido y suplico con el debido rendimiento sea mui serbido de aser, como llebo pedido, de que resevire todo bien y mersed, y juro en debida forma no ser mi pedimento de malisia y en lo necesario, &c.

Joseph Antto. Lucero.

GRANT.

En la villa de Santa Fe, en biente dias del mes de septiembre de mil setesientos i trienta i dos, a vista por mi el Coronel D. Guerbasio Cruzat y Gongora, gor. y capt. gal. deste reino y sus probensias por Su Magestad, la rbe. por presentada en lo que a lugar en derecho y le ago lo mersed en nombre de Su Magestad V. (torn) a fanega de sembradura en el parajue que mensiona i contiene este escripto, con la condicion i calidad de que no sea en perjuisio de tersero que mexor derecho tenga, i en conformidad de esta comision pondra a el suplicante en posesion de dha. fanega de sembradura el Capn. Antto. de Ulibarri, alcalde mayor deste dha. villa, le pondra los linderos que lo corresponden a dha. merced, asi lo probei, mande y firme con los testigos de mi assistencia a falta de escrivano publico y real, que no lo ai en esta reino.

D. Guerbasio Crusat y Congora.

Gaspar Biton.
Juan Antto. Ulibarri.

POSSESION.

En la villa de Santa Fe, en dies y siete dias de el mes de hotubra de mil setesientos y trienta i dos, a yo, el Cap. Antto. de Ulibarri, alcalde mayor y capn. a guerra de esta dha. villa, en virtud de lo probeide por el Senor Coronel D. Guerbasio Crusat y Gongora, gor. y capn. gal. de esta reino, paso yo, dho. alcalde mayor, i de la posesion rial en nombre
49 de Su Magestad, a Joseph Antto. Lucero, con todas las ceremonias acostumbradas, y le senale los linderos que lo pertenecen a la fanega de la sembradura, i son: Por el oriente un aroio que baja a el rio, por el poniente con una piedra grande que esta ariba de las tierra de Manuel Tenorio, por la del norte el Monte, por el sur una sexa de piedra

que ase antes de llegar a el rio desta villa, que de la sexa para el rio pertenese a Manuel Tenorio; y para que coste lo firme, con los testigos de mi assistencia y el una se allo presente a la posesion, que fue Joseph Tenorio, i para que asi coste lo firme yo, dho. alcalde mayor, i los testigos.

ANTONIO DE ULLIBARRI.

JOSEPH TENORIO.
JOSEPH DE ANAIA.
DIMAS GIRON.

CERTIFICATE.

Concuerda con su horiguinal de donde yo, el Capn. Antto. de Ulibarri, lo trassunte a la letra, ba siente i (about half a line illegible) con su horiginal a que (at this point there is just half a sheet missing), le di posesion el dia dias y siete de hoctubra del ano pasado de mil setesientes treinta y dos, y por allarse la tierra montuosa no poder reconoser en el todo si cabria la fanega de mais de sumbradura de que se le yso merced, le senale los linderos que minsiona dha. posesion y oy estar desmontado y reconser no cabia la dha. fanega (torn and illegible), digo a pedimento de la parte (illegible) yo, dho. alcalde mayor, con dos testigos yntelligente en el sembrar que hueron Juan Lucero y Gueronimo de Horteta, quienes dejeron que para descargo de su consensia en lo roto y desmontado no cabia mes que poco mas de media fanega de mais de sembradura, le senale otro pedaso pe. que no que asi desde un arcio chios esta otra arroyo que esta un pino en donde es linderos por la parte de el oriente y para que esta la sirva de (illegible, half a sheet is missing).

50 [Translation of foregoing grant to Antonio Lucero. Referred to in printed record, pages 59 and 60.]

GOVERNOR AND CAPTAIN-GENERAL:

I, Joseph Antonio Lucero, a resident of this town of Santa Fe, appear before the grandeur of your lordship asking that I may have the benefit of all privileges allowed me by law, and state that inasmuch as I have seen a piece of land on this side of the river of this said town sufficiently large to admit of the planting of two fanegas of corn, and it belonging to no one, and I having no place in which to increase the area of my planting ground for the maintenance of my obligations, I have resolved to ask your lordship for said land in the name of His Majesty (whom God preserve), its boundaries being the following: On the east side, an arroyo which runs down to the river; on the south side, with land of Captain Manuel Tenorio; on the west side, with another arroyo which crosses down by a limekiln; on the north side with a (cerro) mountain, which they call the Cerro Gordo; wherefore, I ask and pray with due humility that your lordship may be well pleased to do as I have requested, from which I shall receive great benefit and favor, and I swear in due form that my petition is in good faith, and necessary, etc.

JOSE ANTONIO LUCERO.

DECREE.

At the town of Santa Fe, on the twentieth day of the month of September, of the year one thousand seven hundred and thirty-two, I, Colonel Don Gervasio Crusat y Gongora, governor and captain-general of

this Kingdom and its provinces, having examined the foregoing, I treated it as being entitled to due consideration, and I make to him the grant, in the name of His Majesty, of the fanega of planting land in the place which is mentioned and comprised in this petition, under the condition and provision that it shall not result in injury to a third party who may have a better right, and in conformity with this concession Capt. Anto. de Ulibarri, chief alcalde of this town, shall place the petitioner in possession of said fanega of planting land and will give him the boundaries that belong to said grant; thus I provided, ordered, and signed, with my attending witnesses, for lack of a public or royal notary, of which there is none in this Kingdom.

D. Gervasio Crusat y Gongora.

Gaspar Biton.
Juan Antonio Ulibarri.

51 POSSESSION.

At this town of Santa Fe, on the seventeenth day of the month of October, of the year one thousand seven hundred and thirty-two, I, Captain Antonio de Ulibarri, chief alcalde and war captain of this town, in virtue of what is ordered by Colonel Don Gernasio Crusat y Gongora, governor and capt. general of this Kingdom, I, said chief alcalde went and gave the royal possession, in the name of His Majesty, to Jose Anto. Lucero, with all the accustomed ceremonies, and I designated to him the boundaries which belong to the fanega of planting land, and they are: On the east, and arroyo which comes down to the river; on the west, with a large stone which is above the lands of Manuel Tenorio; on the north, the mountain; on the south, a stone brow (una ceja de piedra), which there is before reaching the river of this town, and from the brow of the river it belongs to Manuel Tenorio, and that it may appear, I signed it, with my attending witnesses, and the one who was present at the possession was Jose Tenorio; and that it may so appear, I signed it, I, said chief alcalde and the witnesses.

Antonio de Ulibarri.

Jose Tenorio.
Jose de Anaya.
Dimas Giron.

CERTIFICATE.

It agrees with its original, from which I, Captain Antonio de Ulibarri copied it literally; it is correct (about half a line illegible) with its original, to which (at this point there is just half a sheet missing) I gave him possession the seventeenth day of October of last year, one thousand seven hundred and thirty-two, and the land being found mountainous and not being able to positively ascertain whether it would contain the fanega of corn planting land for which the grant was made, I designated to him the boundaries which said possession mentions, and to-day being cleared and seeing that it did not contain the said fanega (illegible), I state at request of the party (illegible) I, said chief alcalde with two witnesses, experts in farming matters, who were Juan Lucero and Geronimo de Ortega, who stated that in fulfillment of the obligation imposed on them, there was

just a little more than half a fanega of corn planting land, I assigned to him another small piece which extends from a small arroyo to another arroyo where there is a pine tree where the boundary on the east side is, and that this may serve him as (illegible, half a sheet missing).

52 *Grant to Felipe Tafoya, June 2d, 1742.*

[Referred to in printed record, pages 65 and 66. Archive 961.]

PETITION.

Sr. Teniente Coronel, Ayudante Mayor de los Reales Ejercitos de Su Magestad, Gobernador y Capitan General de este Reino y Provincias de la Nuevo Mexico:

Felipe Tafoya, vesino de la villa de Santa Fe, ante la grandeza de buesa. senoria, paresco con el mas profundo rendimiento de mi obligacion y digo, Sr., que registro un pedaso de tierra de pan llvar, que comunmente llaman el rancho de Belasques que se halla a la otra banda del rio de esta villa, yermo y despoblado, que cabran en dicha tierras dos fanegas de trigo de sembradura y una de mais, por halarme con familia de muger e hijos y no haber tenido ni tener pedaso e tierra por merced que el rey mi senor haga hecho, habiendole serirdo debajo de sueldo en tiempo el tiempo de nueve años, como tambien ser hijo legitimo del Alferas Antonio Tafvoya, quien todo su vida ha servido al rey nuestro senor y actual esta sirviendo, y no haber tenido merced ninguna hecha en nombre del rey nuestro senor de tierras ningunas, siendo como es costante la verdad que ha servido al rey desde su reconquista y no haber tenido que darle tierras a sus hijos, per lo cual me percisa a mi el solicitar parte en donde tener en que sembar para mantener mis obligaciones; por todo lo cual, a buesa. senoria pido y suplico, sea muy servido de hacer y determinar lo que llevo pedido, que es de justicia la que imploro, en le grandesa de su senoria como acostumbra, y juro en debida forma este mi escritio no ser de malisia y en lo necesario, etc.

PHELIPE TAFOYA.

GRANT.

En la villa de Santa Fe, capital de este reino del Neuvo Mexico, en 26 dias del mes de mayo del ano de 1742 anos, yo, el Teniente Coronel Dn. Gaspar Domingo de Mendoza, gobernador y capitan general de
53 dicho reino, vista el presente escrito, le hube por presentado, por lo que debia mandar y mande al Alcade Mayor Antonio de Ulibarri que lo es de la jurisdicion y villa de Santa Fe, ponga en posesion a Phelipe Tafoya, de la merced de tierras que pide para que las pueda poseer por si, sus hijos y herederos de mejor derecho, previniendole de parte de S. M. (Dios gu. gla.) obligacion que tiene de doblarlas y cultivarlas y con los de mas requisitos y circunstancias que disponen las leyes rs. y en particular la legitima, sin perjuicio de tercero, asi lo probey, mande, y firme con los testigos de mi asistencia, a falta de escribano real y publico, que no lo hay, y en el presente papel por no correr el sellado, de que doy fee.

GASPAR DOMINGO DE MENDOZA.

BERNARDO BUSTAMANTE.
JOSEPH DE TERRUS.

POSSESSION.

En la villa de Santa Fe, cabesera de este reino y provincias de la Nueva Mexico, en dos dias del mes de Junio del ano de 1742, yo, el Capitan Antonio de Ulibarri, alcalde mayor y capitan a guerra de esta villa, en cumplimiento de mi obligacion por merced que hijo el senor teniente coronel D. Gaspar Domingo de Mendoza, gobernardo y capitan general de este reino, a favor de Phelipe Tafoya, pase yo, dicho alcalde mayor, al sitio de tierras que esta merced resa, en compania de dos testigos que lo fueron el Capitan Alfonso Rael de Aguilar y Domingo Baldes, para que sirvieran de testigos, y estando en dhas. todos, coji de la mano al referido Phelipe Tafoya y lo pasie por dichas tierras, arranco sacate, tiro piedras, dio voces diciendo viva el rey de Espana, mi senor, Phelipe
54 Quinto (que Ds. ge.). Y para que en todo tiempo conste ser cierto esta real posesion la firme, con dos testigos de mi asistencia, senalandole los linderos que son los siguientes: por la parte del oriente un arroyo que sirve de lindero a las tierras de Phelipe Pacheco; por el poniente un sabino grande en donde mande poner una majo nerva de piedras y lodo; por el norte una acequia mandre muy Antigua que linda con tierras de Gregorio Garduno; por el sur con el camino real de los carros, quedando libres entradas y salidas a el monte; y para que en todo tiempo coste lo firme, actuando por fatoria a falta de escribano publico ni real, que no lo hay en este reino ni en doscientas leguas en contorno, con dos testigos de mi asistencia; en el presente papel por no correr de ningun sello en estas partes, de que doy fee.

ANTTONIO DE ULIBARRI,
Juez Reseptor.

ALPHONSO RAEL DE AGUILAR.
DOMINGO BENAVIDES.

55 [Archive No. 961. Translation of foregoing grant to Felipe Tafoya. Referred to in printed record, pages 65 and 66.]

PETITION.

Hon. Lieut. Colonel, Chief Adjutant of the Royal Armies of His Majesty, Governor and Captain-General of this Kingdom, and Provinces of the New Mexico:

Felipe Tafoya, resident of the town of Santa Fe, appear before your excellency with the deepest feeling of my obligation, and say, your honor, that I registered a piece of land, bread growing, which is commonly called the ranch of Belasques, which is found on the other side of the river of this town, abandoned and unoccupied; there is contained in said land dos fanegas de trigo de sembradura and one, demais, for, finding myself with a family of wife and children, and not having had, nor do I have, a piece of ground by grant which the King, my lord, has given me; having served under pay from time to time nine years, I am also legitimate son of the ensign Antonio Tafoya, who all his life served the King, our lord, and is now so serving him; and has never had any grant made in the name of the King, our lord, of land whatsoever, and being the truth that he has served the King from the reconquest, and has not had wherewith to give lands to his children, to which it appears to me proper to solicit a place where I can have to cultivate to maintain my obligations;

for all of which of your worship I ask in sup'licate that you will be pleased make and determine that which is asked, which is of justice that which I implore, in the greatness of your power as accustomed, and I swear in proper form this, my writing, is not in malice and in that which is necessary, etc.

FELIPE TOFOYA.

56 [Archive No. 961. Translation.]

GRANT.

I, the lieut. colonel, Don Gaspar Domingo de Mendoza, governor and captain-general of said Kingdom, have seen the present document made and presented that which should be I command the alcalde mayor, Antonio de Uli Barri, who is of the jurisdiction and city of Santa Fe, to put in possession Felipe Tafoya, of the grant of land which he asks that he may be able to possess for him, his children, and his heirs, better right giving from the part of (Sn. dios Gue.) the obligation that he has to occupy and cultivate, and all the requirements and circumstances which is required by the royal laws, and particularly that which is proper to do no injury to third party, so I have ordered and signed with my witnesses, who are assisting me, their being no royal notary, and in the present paper, which does not carry the seal, I authorize the same.

GASPAR DOMINGO DE MENDOZA.

BERNARDE BUSTAMANTE.
JOSEPH DE TERRUS.

POSSESSION.

In the city of Santa Fe, chief city of this Kingdom and province of New Mexico, on the 2nd day of June, A. D. 1742, I, the Captain Antonio de Ulibarri, alcalde mayor and war captain of this city, in conformance with my obligation for order made by Lieut. Col. de Gaspar Domingo de Mendoza, governor and captain-general of this Kingdom, for the
57 benefit Felipe Tafoya, I, said alcade mayor, visited the cite of the land which this grant names, in company with two witnesses, who were Captain Alfonso Real de Aguilar y Domingo Baldes, that they should serve as witnesses, and being in said , I took them all by the hand, the referred to Felipe Tafoya, and I walked them over said ground, and he pulled up grass, threw stones, shouted, saying "Viva, viva, el rey de Espana," mi senor, Felipe Quinto, que dios guarde."

And that it will for all time serve this royal possession, I sign with two witnesses, showing them the boundaries, which are the following:

On the east an arroyo, which is the boundary to the lands of Felipe Pacho; on the west, a large cedar where I ordered should be put a mound of stones and mud; on the north, an acequia madre very old, which bounds with the lands of Gregorio Garduno; on the south with the road of the de los carros; remaining free, the entrances and salidas to the timber, and that in all times it will appear, I sign, acting for want of a escribano publico, there being none in this kingdom, nor in two hundred leagues in distance, with two witnesses assisting me in the present paper, there being none with the seal in these parts, to which I subscribe.

ANTONIO DE ULIBARRI,
Jurez Receptor.

ALPHONSO REAL DE AGUILAR.
DOMINGO BENAVIDES.

58 *Grant to Domingo Valdez.*

[Referred to in printed record, pages 61 and 62. Copy of archive No. 1043.]

SENOR GOVERNADOR Y CAPITAN GENERAL:

Domingo Valdes, vecino de esta villa de Santa Fé, ante la grandeza de V. S. parezco y digo, señor, que estando casado con una nieta de Ana Maria Pacheco, ya difunta mujer que fué del Capitan Don Diego Arias, (que en paz descanse) y siendo la dicha mi mujer una de las herederas forzosas de la dicha Ana Maria Pacheco, me señaló Don Diego Arias la parte de tierras que le pertenecian á mi mujer y habiendolo hecho en voces y no por escrito como era de razon como albacea que fué de Ana Maria Pacheco, y estando yo en el entender ser cierto lo que se me habia señalado y haberlo gozado el tiempo de once años sin perjuicio como legítimo dueño, y por estar cierto que dichas tierras que me señalaron no estan debajo de la merced y serme de grave perjuicio el que se me meta alguna persona por ser entradas y salidas de unas cabritas que tengo con que mantengo mi pobre familia, y no tener entradas por atra parte ninguna se ha de servir la grandeza de V. S. de darmele de merced, mirandome con su acostumbrada caridad, lo cual espero de V. S., y dicho pedazo de tierras son desde mi casa hasta un arroyo que baja hasta la casa del Capitan Miguel de Coca, y de oriente á poniente lo que tengo labrado sin subir ni bajar mas.

Por todo lo cual á V. S. pido y suplico sea muy servido de hacer como llevo pedido, por ser de justicia lo que espero del Cristiano pecho de V. S., y juro en forma este mi escrito no ser de malicia y en lo necesario &c.

DOMINGO VALDES.

Santa Fe, junio tres de mil setecientos cuarenta y dos, el Alcalde Mayor Antonio de Ulibarri me informará si tiene lugar lo que pide el suplicante en este, y habiendolo se hará como lo pide.

MENDOZA.

En la villa de Santa Fé, en cinco dias del mes de junio de mil setecientos y cuarenta y dos años, en cumplimiento de lo mandado por el Señor Teniente Coronel Don Gaspar Domingo de Mendoza, governador y capitan general de este reyno, pase yo, Antonio de Ulibarri, alcalde mayor de esta villa, á las tierras de Francisco Bales, que pide en su escrito, y le cojí de la mano y le pasé por dichas tierras, arrancó sacate, tiró piedras, dió voces en señal de posesion real, y para que conste lo firmé, siendo sus linderos por el oriente una Santa Cruz, por el poniente un monton de piedras con otra Santa Cruz, por el sur un arroyo que hace en el
59 camino de los carros que está otra Santa Cruz grade, por el norte con sus propias tierras que tiene por herencia de su mujer Ana Maria Marques, que todo se incluye en esta posesion; y por ser verdad lo firmé con dos testigos de asistencia, á falta de escribano público ni real, que no lo hay en este reyno; en el presente papel por no correr de ningun sello en estas partes, de que doy fé.

ANTONIO DE ULIBARRI,
Juez Receptor.

Tto.: ALFONSO RAEL DE AGUILAR.
Tto.: GREGORIO GARDUÑO.

[Translation of foregoing grant to Domingo Valdez. Referred to in printed record, pages 61 and 62.]

LORD GOVERNOR AND CAPTAIN-GENERAL:

Domingo Valdes, resident of this city of Santa Fe, appears before the greatness of your excellency, and I say, sir, that being married to a granddaughter of Ana Maria Pacheco, deceased, who was the wife of Captain Don Diego Arias (may he rest in peace), and my said wife being one of the lawful heirs of the said Ana Maria Pacheco, Don Diego Arias showed me the portion of lands which appertained to my wife, and having done so verbally and not in writing, as was natural, he being the executor of Ana Maria Pacheco, and I being satisfied that what had been shown me was correct, and having enjoyed it for the period of eleven years without trouble as the legitimate owner, and being satisfied that said lands which were shown me are not within the grant, and it being highly prejudicial to me that any person should get in there, as being the entrance and exit for some little goats I have with which I maintain my poor family and not having any entrance elsewhere, the greatness of your excellency will be pleased to grant me the same, looking on me with your accustomed charity, all of which I hope of your excellency, and said piece of land is from my house to an arroyo which goes down to the house of Captain Miguel de Coca and from east to west what I have cultivated without going higher or lower.

In consideration of all of which I beg and pray that your excellency will be pleased to do as I have petitioned as being justice which I hope for from the Christian breast of your excellency, and I swear in due form that this, my petition, is not malicious, and in what is necessary, &c.

DOMINGO VALDES.

Santa Fe, third of June, seventeen hundred and forty-two. The chief alcalde, Antonio de Ulibarri, will report to me if what the petitioner prays for is proper, and if proper it shall be done as he prays.

MENDOZA.

In the city of Santa Fe, on the fifth day of June, in the year seventeen hundred and forty-four, in obedience to what is decreed by the Lord Lieutenant-Colonel Don Gaspar Domingo de Mendoza, governor and captain-general of this Kingdom, I, the chief alcalde of this city, Antonio de Ulibarri, went to the lands of Domingo Baldez, which he petitions for in his memorial, and I took him by the hand and walked him over said land; he plucked grass, threw stones, shouted, in sign of royal possession, and in order that this may appear I signed; his boundaries being on the east a holy cross; on the west a heap of stones with another holy cross; on the south an arroyo which lies on the Camino de los Carros waggon road where there is another large holy cross; on the north with his own lands which he inherited from his wife, Ana Maria Marques, which is all included in this possession, and because t is true I signed the same, with two assistant witnesses for want of a

public or royal notary, of which there are none in this Kingdom, on this present paper because there is none stamped current in these parts. To which I certify.

ANTONIO DE ULIBARRI,
Delegate Judge.

Witnesses:
ALFONSO RAEL DE AGUILAR.
GREGORIO GARDUÑO.

[Here follows map marked p. 61.]

62 *Grant to Tomas Tapia, June 2d, 1742.* (*Archive 962.*)

[Referred to in printed record, page 65.]

PETITION.

SOR. GOBERNADOR Y CAPITAN GENERAL:

Tomas de Tapia, soldado de esta rl. presidio de la villa de Santa Fe, puesto a los pies de la grandesa de V. S. en la mas bastante forma que el derecho me permite ava lugar y al mio convenga, y digo que siendome forsoso buscar un pedaso de tierras para poder sembrar y coger bastimento para poder mantener mis obligaciones, ha atension de este registro un pedaso de tierra, el qual esta de la otra banda del rio para abajo, que sus linderos son los siguientes: Por el oriente linda con tierras de Phelipe Pacheco, por el poniente con unos sabinos altos, y un por el norte con otro arroyo y una ruina de una casa, y por el sur con un camino que ba para el Alamo. Dicho pedaso de tierras lo pido en nombre del rey mi amo me la conceda por merced, la grandesa de V. S., que recibire todo bien y de concedermelo mande V. S. al alcalde mayor de esta villa me meta en posesion, que asi lo aguarda mi mucha confianza; y juro en debida forma no ser de malicia este mi escrito, en lo necesario, etc.

TOMAS DE TAPIA.

GRANT AND ORDER OF POSSESSION.

SANTA FE, *Junio dos de mil setecientos y cuarenta y dos.*

El alcalde mayor, Antonio de Ulibarri, le pondra en posesion al suppte. en este, del pedaso de tierras que tiene señalado, en la merced que se le yso a Felipe Tafoya.

MENDOZA.

ACT OF POSSESSION.

En la villa de Santa Fe, en tres dias del mes de junio del año de mil setesientos cuarenta y dos, yo, Antto. de Ulibarri, alcalde mayor y capitan a guerra de la dicha villa, en cumplimiento de lo mandado por el señor teniente coronel Dn. Gaspar Domingo de Mendoza, pase a las tierras referidas y coji de la mano a Tomas Tapia y le di posesion en
63 nombre de Su Magestad (que Dios guarde), arrancando sacate, tirando piedras, dio voces en señal de posesion real, señalandole

los linderos que son por la parte del oriente una mojonera de Philipe Tafoya, por el poniente un sabino grande sangajoso, por el norte una acequia madre mui antigua, por el sur el camino de los carros, y para que en todo tiempo coste, lo firme, actuando como juez reseptor, con dos testigos de mi asistencia, a falta de escribano publico ni real que no lo hay en este reino, en el presente papel, por no correr de ningun sello en estas partes. De que doi fee.

ANTONIO DE ULIBARRI,
Juez Reseptor.

Testigo: DOMINGO VALDEZ.
Testigo: ALFONSO RAEL DE AGUILAR.

Concuerda este testimonio con su original de donde yo, el capitan, Antonio de Ulibarri, lo yse transtar a la letra.

Coregido, y concuerdo y amendado sacar. Fueron testigos ynstrumentales, Gregorio Garduno y Felis Sanches, y para que en todo tiempo coste lo firme yo, dho. alcalde maior, de mi nombre, actuando por resetorio por la notoria falta de escribano publico y rl., que no lo ai en estas partes; ha en el presente papel por no corer de ningun sello en estas partes. De que doi fee.

En testimonio de berdad ago mi firma publica acostumbrada.

ANTONIO DE ULIBARRI. [RUBRIC.]

GREGORIO GARDUNO. [RUBRIC.]
JU. MANUEL CHIRINOS. [RUBRIC.]

64 [Translation of the foregoing petition, grant, and act of possession, of the grant given to Tomas Tapia, of date June 2d, 1742. (Testimonio of original archive No. 962.) Referred to in printed record, page 65.]

PETITION.

Senor governor and captain-general, of this royal garrison of the town of Santa Fe, at the feet of your excelleney, in the most approved and respectful form, I state that being forced to seek a piece of land which I may be able to cultivate, whereby to make enough to maintain those dependent upon me, I registered a piece of land which is down the river, on the other side, and its boundaries are as follows: On the east it bounds with lands of Felipe Pacheco; on the west with some tall cedars and an arroyo; on the north with another arroyo and the ruins of a house, and upon the south by a road that goes to the Alamo. The said piece of land I ask (in the name of my master, the King) you will give me as a grant, and that you will order the alcalde mayor of this town to place me in possession, and I swear that this, my petition, is not in prejudice, and what is necessary, etc.

TOMAS DE TAPIA.

GRANT AND ORDER OF POSSESSION.

SANTA FE, *June 2nd, 1742.*

The alcalde mayor, Antonio Ulibarri, will place the petitioner herein in possession of the piece of land designated in the grant that I made to Felipe Tafoya.

MENDOZA.

65 ACT OF POSSESSION.

In the town of Santa Fe, June 3rd, 1742, I, Antonio de Ulibarri, chief alcalde and war captain of the said town, in obedience to the command of Lt. Col. Don Gaspar Domingo Mendoza, I proceeded to the said land, took Tomas Tapia by the hand, and gave him royal possession in the name of His Majesty (God preserve him), and he, pulling up grass and casting stones, shouted in sign of royal possession, I designating to him the boundaries, which are: On the east side, a landmark of Felipe Tafoya; on the west, a large, crooked cedar tree; on the north, a very ancient main ditch (acequia Madre), and on the south, the public wagon road (Camino real de Carros); and that in all time it may so appear I sign this, acting as special justice, with my two attending witnesses, and in the absence of any public or royal notary, there being none in this Kingdom, and on this plain paper, there being no stamped paper current in these parts. To which I certify.

ANTONIO DE ULIBARRI, [RUBRIC.]
Acting Justice.

Witness:
DOMINGO VALDEZ. [RUBRIC.]
Witness:
ALFONSO RAEL DE AGUILAR. [RUBRIC.]

This testimonio agrees with its original, from which I, Capt. Antonio de Ulibarri, copied it letter by letter, compared, corrected, and (torn) the instrumental witnesses who saw it taken were Gregorio Gardino and Felis Sanchez; and that it may at all times so appear, I, said chief alcalde, sign my name to it, acting as special justice for the notorious lack of any public or royal notary, there being none in these parts, and on this common paper, there being none stamped in these parts. To which
66 I certify, in testimony of the truth, I making my accustomed public rubric.

ANTONIO DE ULIBARRI. [RUBRIC.]

GREGORIO GARDUNO. [RUBRIC.]
JU. MANUEL CHERINOS. [RUBRIC.]

67 *Grant to Catarina Maese, July 1742.* (*Archive No. 527.*)

[Referred to in printed record, pages 62 and 63.]

PETITION FOR GRANT.

SOR. THENIENTE CORONEL, GOBERNADOR Y CAPITAN GENERAL:

Catarina Maese, vesina de esta villa de Santa Fe, y puesta a las plantas de V. S., paresco ante su grandeza en la mas bastante forma que aya lugar en derecho y al mio convenga, y digo, senor, que habiendo entrado a este reino mi padre (que Ds. ge.), y haberse hallado en su conquista y reconquista en el servicio del Rey Ntro. Sor. (q. D. guarde), en cuyo real servicio murio y no haverle dado su Magd. un pedaso de tierras en que poder vivir ni sembrar, aunque yo tengo mi casa, la ube por compra, y hayandome con un nieto, huerfano y desvaledo, y no tener como llevo dicho en que poder sembrar, por lo que registro uno pedaso de tierras yermas y despobladas en la otra banda del rio de esta villa, las cuales son

sobras de las que V. S. le dio de merced a Domingo Valdez, que por la parte del norte lindan con la sequia madre, por el sur con un arroyo Montuoso, por el oriente con tierras de dho. Domingo Valdez, y por el poniente con tierras de el Capn. Migl. de Coca, las que pido con el mas profundo rendimento a la grandesa de V. S. me aga mersed de ellas en nombre de Su Magd., esperando como espero de su Catolico pecho se servira de proveer en justicia lo que fuera de servido, por lo que a V. S. pido y suplico sea muy servido hacer como llevo pedido, que en ello recibire bien y merced, y juro en toda forma de derecho no ser de malicia este mi escrito, y en lo necesario, etc.

CATARINA MAESE.

68 DECREE OF GRANT.

Auto. En la villa de Santa Fe, capital de este reino del Nuevo Mexico, en veinte y dos dias del mes de julio del ano de mil setecientos cuarenta y dos anos, yo, el teniente coronel Dn. Gaspar Domgo. de Mendoza, gbor. y cp'n. g'l. de dicho reino, visto el presente escrito por la supp'te a la buelta, debia mandar y mande al alce. ma. de esta villa, Anto. de Ulibarri, de la posesion de las tierras que pide Catalina Maese, las que en nombre de S. M. (Ds. ge.) le concedo, presediendo las circunstancias necesarias como se practica en las mersedes rs., y en partic'lar la de sin perjuicio de tierras senalandole aquellas que fuesen necesarias para su siembra y cultivo con sus linderos clara y distintamente, asi lo probey, mande, y firmê en la forma acostumbrada en dho. reino, y en el comun papel por no correr otro, etc.

DN. GASPAR DOM. DE MENDOZA.

JOSE DE TERRUS.
GREGORIO GARDUNO.

ACT OF POSSESSION.

En la villa de Santa Fe, en tres dias del mes de agosto del ano de mil setecientos y cuarenta y dos anos, yo, el Cap. Anto. de Ulibarri, alcalde mayor y capitan a guerra, digo que en cumplimiento de lo mandado en su decreto, el senor Teniente Coronel D. Gaspar Domingo de Mendoza, pasea las tierras que pide Catalina Maese, y estando en ellas la coji de la mano y la pasie por dhas. tierras; arranco sacate, tiro piedras, dio voces diciendo viva el rey de Espana mi senor, y le senale los linderos de Domingo
Valdez que a el dho. Valdez le sirve del lindero del poniente, le
69 sirve a la dha. Catalina Maese le sirve del lindero del oriente, desde donde le medi para abajo que es el poniente hay doscientas y diez varas cas*i*lla'os, y desde el sur un arroyo que para por el medio del llano, y por la parte del norte otra acequia que esta a el lado derecho del camino que viene para esta villa por el rancho del Capn. Diego Arias. A esta posesion se hallaron presentes, por testigos, Juan Manuel Chirinos y Gregorio Garduno qui'nes lo firmaron conmingo, siendo tambien los testigos de mi asistencia, antuando por factoria a falta de escribano publico y real, que no lo hay en este reino; y ba en el presente papel por no corren de ninguno sello en estas partes, de que doy fee.

ANTTO. DE ULIBARRI.

Ttto.: GREGORIO GARDUNO.
Ttto.: JUAN MANUEL CHIRINOS.

70 [Translation of the foregoing petition—grant and possession given Catarina Maese, of date 22nd July, 1742. Archive No. 527. Referred to in printed record, pages 62 and 63.]

PETITION.

SENOR LIEUTENANT-COLONEL, GOVERNOR, AND CAPTAIN-GENERAL:

I, Catarina Maese, resident of this town and post of Santa Fe, appear before your excellency in what seems to me to be most approved in the form of right, and say, Senor, that my father (God bless him), having come into this Kingdom as one of the conquerors and reconquerors in the service of the King, our lord (God preserve him), in which royal service he died, and His Majesty not having given him any piece of land upon which to live or plant, and although I have a house, I obtained it by purchase, and finding myself with a grandson, an orphan and destitute, and having nothing upon which to maintain him by way of land to plant, therefore I have requested a piece of land vacant and unsettled on the other side of the river of this town, which lands are the surplus (sobrante) of the lands which His Majesty granted to Domingo Valdez, and are bounded on the north by the acequia Madre, on the south by a wooded arroyo, on the east by lands of the said Domingo Valdez, and on the west by lands of Captain Miguel de Coca, which, with the most profound submission, I request and beseech your excellency will grant to me in the name of His Majesty, hoping, as I do hope, from your Catholic breast that you will be pleased in mercy and justice to do me the service I request, and as I have requested that therein I shall receive benefit and grace, and I swear in full rightful form that this is not in prejudice, and all that is necessary, etc.

CATARINA MAESE.

71 GRANT.

In the town of Santa Fe, capitol of the Kingdom of New Mexico, on this 22nd day of July, 1742, I, Lieutenant-Colonel Don Gaspar Domingo de Mendoza, govr. and captn. general of said Kingdom, having received as presented, and having examined this application of the petitioner, I at once, as I ought to order, do order, the alcalde mayor of this city, Antonio de Ulibarri, to give to Catarina Maese possession of the lands that she petitions for, and which, in the name of His Majesty (God preserve him), I grant to her; said alcalde to proceed with all the necessary steps and forms in giving possession of grants, and in particular seeing that no prejudice is done to any third party, assigning said lands necessary for planting and cultivating with their boundaries, clearly and distinctly. So I provide, order, and sign, in the form customary in this Kingdom, and on common paper, there being no other current, etc.

DON GASPAR DOMINGO DE MENDOZA.

JOSE DE TERRUS.
GREIGRIO GARDUNO.

ACT OF POSSESSION.

In this city of Santa Fe, the 3rd day of August, 1742, I Capt. Anto. de Ulibarri, alcalde mayor and war captain of the town, certify that in

fulfillment of that ordered in his decree by the Lieut. Col. Don Gaspar Domingo de Mendoza, I proceed to the lands petitioned by Catrina Maese, and being thereon I took her by the hand and with her passed over the said lands; she plucked up grass, cast stones, and shouted in a loud voice, saying, "Long live the King of Spain, my lord;"
72 and I showed her the boundaries of the lands of Domingo Valdez, which serve as the east boundary of the land of said Catrina Maese, whence I measured downwards, that is, to the west 210 varas, "castillanas," and upon the south an arroyo, that passes through the middle of the plain, and for the north side another acequia, which is on the right side of the road which comes to this city by the ranch of Don Capt. Diego de Arias. To this grant, there being present as witnesses Juan Manuel Chironis y Gregorio Garduno, who sign with me, being also my assisting witnesses, acting for want of a royal notary public, there being none in this Kingdom, and made on this present paper, there being none of the sealed in this part, which I certify.

ANTO. DE ULIBARRI,
Acting Judge.

Tto.: GREGNO GANHINO.
JUAN MANUEL CHIRINOS.

72½ EXHIBIT No. 2.

[Certified copy of archive No. 25, from the original, it being grant to Juan Antonio Archuleta and Leonardo Gonzales, Sept. 4th, 1742. Referred to in printed record, pages 63 and 64.]

Sr. teniente coronel y ayudante mallor de los reales exersitos de su magd., gobernador y capitan general deste reino y probinsias de la Nueba Mejico, Don Gaspar Domingo de Mendoza: Juan Antonio Archuleta, besino de la billa de Santa Fe, ante la grandesa de su senoria, paresco con el mas prefundo rendimiento de mi obligasion y digo, Sr., que registro un pedaso de tierras de pan llebar que esta de la otra banda del rio desta billa, desde el camino de los caros que ba para el alamo asta una loma alta que comunmente llaman el serito de la raes, de entender, que estas tierras las pido en nombre de Su Magestad (que Dieos guarde), para mi y para Leonardo Gonzales, besino tambien de dicha billa; estan llermas y deplobadas; que acabran en el ses fanegas de trigo y cuatro de mais; por allarnos los dos con familia de myjeres y hijos y no tener donde podeer sembrar para mantenerles, los por todo lo cual a su senoria pido y suplico se sirba de aser y determinar como llebo pedido es de justisia, la que imploro en la grandesa de senoria como acostumbra; y juro en toda forma este mi escrito no ser de malisia, en lo necesario, &c.

JUAN ANTONIO ARCHULETA.
LEONARDO GONSALES.

AUTO.

En la billa de Santa Fe, cabes*a*ra de este reino del Nuebo Mejico, en cuatro dias del mes de setiembre del ano de mil setecientos
73 cuarenta y dos, yo, el teniente coronel, Don Gaspar Domingo de Mendoza, gobr. y cappn. general del dicho reino, se presento

ante mi el presente escrito y en virtud de su contenido devia mandar y mande a el Cappn. Antto. de Ulibarri, alcalde mayor de dicha villa, pase con los supptes. a las dichas tierras que pidan, y en nombre de su Magestad (Dios le ge.), les ponga en posesion real para que asi por sus personas, hijos, sucessores y herederos las cultivan, mantegnan, y benefician, observando en su data senelar los linderos y las demas circunstancias necessarias que se requieren en las mercedes reales. Asi lo provee, mande y firme, con los testigos de mi asistencia, actuando por receptoria por la notoria falta de escribano real y publico, que no lo hay, en papel comun por no correr el sellado, de que doy fee. Vale.

DON GASPAR DOMINGO DE MENDOZA. [RUBRIC.]

Testigo: JOSEPH DE TERRUS. [RUBRIC.]
SEBASTIAN APODACA. [RUBRIC.]

POSECION.

En la villa de Santa Fee, en veinte dos dias del mes de abril de mil setecientos cuarenta tres anos, yo, el Cappn. Antonio de Ulibarri, alcalde mayor desta dicha villa, digo que en cumplimiento del auto de merced espedido por el Sr. Teniente Coronel Don Caspar de Domingo de Mendoza el dia cuatro de setiembre del pasado ano, pase yo, dicho alcalde mayor, a las tierras mencionadas en este escripto, y estando en ellas coja de la mano a los suplicantes Juan Antonio de Archuleta y Leonardo Gozales, y los pasie de la mano por dicha' tierras; arancaron sacate, tiraron piedras, en senal de real posecion, diciendo a bosea, viva el rey nuestro Senor, Felipe Quinto (que Dios guarde), y les senarle los linderos que fueron: Por el oriente una santa cruz, que le sirve de lindero a Juan Felipe
74 Rodriguez; por el poniente con linderos del Capitan Miguel de Coca; por el norte el camino de los carros, por el sur las lomas montuosas; y para que coste lo firme, actuando por receptoria a falta de escribano publico y real, que no lo ai en este reino, con dos testigos de asistencia, de que doi fee. Vale.

ANTONIO DE ULIBARRI,
Juez Receptor.

GREGORIO GARDUNO.
SEBASTIAN DE APODACA.

Certified as true copy by sur. genl. Oct. 6, '92.

[Translation of the foregoing copy of archive No. 25 of grant to Juan Antonio Archuleta and Leonardo Gonzales, of date Sept. 4, 1742. Referred to in printed record, pages 63 and 64.]

PETITION.

Lieutenant-Colonel and Senior Adjutant-General of the Royal Armies of His Majesty, Governor and Captain-General of the Kingdom and the Provinces of New Mexico, Don Gaspar Domingo de Mendoza:

I, Juan Antonio de Archuleta, resident of the town of Santa Fe, appear before your excellency with the profoundest submission and state that I have registered a piece of planting land which is on the other side of the river of this town from the wagon road (caminos de los carros) which

goes by the alamo to a high ground commonly called the "serrito de la jara" (see Ex. 42), that is to say, that the lands I solicit in the name of His Majesty (may God preserve him) for myself and Leonardo Gonzales, also a resident of the said town, are vacant and unsettled and are about six fanegas of wheat and four of corn. We find ourselves each with a family, a wife and children, and no place to plant whereby to sustain them, wherefore I implōre your excellency will be pleased to grant, as
75 I have requested, it being common justice only that I ask of your excellency, and I swear in full form that this, my petition, is not in bad faith, and whatever is necessary, etc.

JUAN ANTONIO ARCHULETA. [SCROLL.]
LEONARDA GONZALES. [SCROLL.]

DECREE.

In the town of Santa Fe, capitol city of this Kingdom of New Mexico, on the fourth day of the month of September, in the year one thousand seven hundred and forty-two, I, Lieutenant-Colonel Don Gaspar Domingo de Mendoza, governor and captain-general of the said Kingdom, this writing being presented to me, and in view of its contents I ought to order and do order Captain Antonio Upibarri, senior alcalde mayor of said town, to go with the petitioners to the said lands they solicit and in the name of His Majesty (God preserve him) put them in actual possession, so that they, their children, and successors and heirs, make, cultivate, hold, and enjoy them, observing that the boundaries shall be marked, and doing whatever else is requisite in royal grants. So I provide, order, and sign, with my attending witnesses, acting in place of the notorious lack of any royal notary, there being none, and on this common paper, there being none current that is sealed.

To which I certify. It is valid.

DON GASPAR DE DOMINGO DE MENDOZA. [RUBRIC.]

Witness:

JOSEPH DE TERRUS. [RUBRIC.]

Witness:

SEBASTIAN APODACA. [RUBRIC.]

ACT OF JUDICIAL POSSESSION.

In this town of Santa Fe, the 22nd day of April, 1743, I, Capta. Antonio de Ulibarri, senior alcalde of the said town, certify that in compliance with a decree of grant made by the lieutenant-colonel,
76 Don Gaspar de Domingo de Mendoza, the 4th of September of last year, I, said senior alcalde, proceeded to the lands mentioned in said decree, and being there I took by the hands the petitioners, Juan Antonio Archuleta and Leonardo Gonzales, and by the hand conducted them over said lands, and they pulled up gras' and threw stones in sign of actual possession, and shouting, Long live the King, our lord, Felipe the Fifth (God preserve him), and to them I showed the boundaries which are: On the east a holy cross which serves as the boundary of Juan Felipe Rodrigues; on the west the boundary of Captain Miguel de Coca; on the north the "Camino de los carros," and upon the south the wooded hills

(see Ex. 42), and that it may appear I sign it with two attending witnesses for want of a royal notary public, there being none in this Kingdom. Which I certify. It is valid.

ANTONIO DE ULIBARRI,
Acting Justice.

GREGORIO GARDUNO. [RUBRIC.]
SEBASTIAN DE APODACA. [RUBRIC.]

77 *Grant to Alfonso Rael de Aguilar.*

[Referred to in printed record, pages 60 and 61. File No. 104, in surveyor gl.'s office.]

PETICION.

SR. SARJENTO MAYOR GOBERNADOR Y CAPT. GENL.:

Alfonso Rael Agualar, vecino de este villa de Santa Fe, paresco ante la grandza. de Vd. en la mas basttantte forma que aya lugar en derecho y al mio convenga y digo, Sr., que aviendo registrado un pedaso de tierra yermas y despobladas el pasado año triente y nueva, ante el Sr. Tienente Coronel Dn. Gaspar Domingo de Mendosa, gobernador y capn. gnl., que fue de este reino, quien mi hizo mersed de ellas en nombre de Su Majestad (que Dios guarde), y aivendose me desgrasiado dha. mersed, por lo que buelvo a suplicar a la grandeza de Vd. se sirva de darme nueva merced de ellas por tenerlas sembradas, y dhas. tierras estando la otra vando del rio de esta villa: que sus linderos son por el norte, camino real que va para el alamo, por el sur el camino de los carros, por el oriente con tierras de Beatris Lucero, y por el poni*a*nte con tierra de Domingo Valdez, por el que pida y suplico con el mas profundo rendemto. de mi obligacion, sea mui servido de consedermelas en nombre del Rey Nuestro Sr. (que Dios guarda), que en ello recivire bien y merced, y juro en devida forma no ser de malicia est*a* mi pidimiento, y en lo nesario, &c.

ALFONZO RAEL DE AGUALAR.

ORDER.

SANTA FE *y Julio 21 de 1744.*

Visto el presente escrito lo hube por presentado, y en atencion a las tierras que el suplicante pide informara el alcalde mayor de esta villa si son realengas, y sin le sigue perjuicio a tercero para hacerle la merced de ellas; asi lo provei y mas de.

CODALLOS.

78 REPORT.

En la villa de Santa Fe, en biente y dos dias del mes de julio del año del mel setesientos y quarente y quartro, en cumplimento de la mandada por el señor sargento mayor, Don Joachin Codallos y Rabal, gov. y capn. gal. de esto reyno, yo, Antonio de Ulibarri, alcalde mayor desta dha. villa, digo que lo q. devo y informar a Vd. sobra las tierras que se *se*piden de merced lo que el contenida las ha poseido parte de tiempo estrajudicialmente, y la otra parte en birtud de merced y que esta a sido sin perjuicio de tersero ni al presente lo abra si su señoria quero serbido de consederle merced que pide por ser persona q. a serbido a Su Majestad muchos tiempos,

y su padre defunto, loyso en los primeros empleaos militares y politicos de esta Reyno, a qe. se llega hallarse con cresida familia de muy leyjos que es lo que puedo ynfomer a Vd. para que mande lo que fuero serbido, q. sera como siempra le moxar.

ANTONIO DE ULIBARRI.

GRANT.

En la villa de Santa Fe, en viente y tres dias de el mes de julio de mil setescientos y quarento y qurtro años, yo, el Sarjento Mayor Don Joachin Codallos y Rabal, govn. y capn. gral. de esta reyno de la Nuevo Mejico, sus provincias y fronteras, visto lo pedido por Alfonso Rael de Arigualar, contenido en escrito de esta otra paja, y el informe hecho por Antonio de Ulibarri, alcalde mayor y capitan de guerra de esta dha. villa, en que espressa no haver perjuicio de tercero possehedor y ser relengas otras tierras, registra en nombre de Su Majestad (Dios lo guardo) le hacia, e hice a el susodho., sus herederos y successores merced de dha. tierras
79 para que pueda labrar y usar de ellas, como mas bien visto le fuere sin perjuicio de tercero, para cuya posession, si le confiere comission a dho. Anto. Ulibarri, la que darra en la parte y lugar que se anuncia debajo de los linderos que se expresan a todas quartro vientos con senales o mojoneras que manifiesten sus limitos, asi lo provei, mande y firme con los testigos de assistencia, a falta de escribano real y publico, que no lo hai en esta reyno, doi fe.

JOACHIN CODALLOS Y RABAL.

DON FRANCO. DE ROA Y CARRILLO.
ANTO. AROMBUGAR.

POSESSION.

En la Villa de Santa Fe, en bienty quartro dias del mes de julio de mil setisientos quarento y quartro anos, yo, Anto. de Ulibarri, alcalde mayor y capn. guerra de esta dha. villa, digo que en cumplimento de lo mandad por el Senor Sarjente Mayor Don Joachin Codallos y Rabal, govr. y capn. gral. de este reyno, pasa a la tierras que pide Don Alfonso Rael de Agualar; estando en ellas lo coje de las mano y lo pasie por ellas, arranco saquate, tiro piedras, dio voices dicende viva el Rey de Espania, mi Senor, en señal de real posession sin contradiccion alguna; señaladole los linderos por los quartro bientos que fueron por la parte del horiente con tierras de Melchor Rodriguz, fueron de Beatric Lucero, esta un arroyo que llaman Diego Valasques, y de alli por el mismo oriente con tierras de Tomas Tapia, y por el poniente con tierras de Domingo Valdez,
80 y por el Norte el camino real que sale de esta villa par el alamo, y por la parte del sur el camino que llaman de los carros; y dha. posesion la recivio ante dos testigos que fueron Gregorio Garduno y Franco. Rendon, ambos personas de este villa; y para que coste lo autue con los mismo testigos que fueron de asistencia a falta de escribano publico que no lo aye en esta reyno; en el presente papel por no corer de ningun sello en estas partes, que de todo doi fe.

ANTONIO DE ULIBARRI,
Jues Receptor.

GREGORIO GARDUNO.
FRANCISCO RENDON.

81 [File 104. Translation of the foregoing original grant to Alphonso Rael de Aguilar of date July 23rd, 1744. Referred to in printed record, pages 60 and 61.]

YEAR 1744.

Grant made to Alphonso Rael de Aguilar revalidating that which appears in the original of lands beyond the walls of this town of Santa Fe, under the boundaries which are expressed therein, etc.

PETITION FOR GRANT.

SENOR SERGEANT-MAJOR, GOVERNOR, AND CAPTAIN-GENERAL:

I, Alphonso Rael de Aguilar, resident of this town of Santa Fe, appear before the greatness of your lordship, in the most approved form of right I can, and say, Senor, that I having registered a piece of vacant and unsettled land last year (1739), before the colonel, Don Gaspar Domingo de Mendoza, governor and captain-general, that was of this Kingdom, who made me a grant of the lands in the name of His Majesty (God protect him), and he having taken away from me the said grant, therefore I come to beseech your lordship to be pleased to give me a new grant of the lands, that I may have them planted, which said lands are on the other side of the river of this town, and their boundaries are: On the north, the public highway that goes to the Alamo; on the south, the Camino de los Carros; on the east, by lands of Beatriz Lucero; and on the west, by lands of Domingo Valdez. Wherefore—

With the profoundest submission I beg your lordship that you may be pleased to grant me the land in the name of the King, our lord
82 (may God protect him), that therein I may receive benefit and grace. I swear in due form that this, my petition, is not in prejudice, and what is necessary, etc.

ALFONSO RAEL DE AGUILAR.

ORDER OF REFERENCE TO THE ALCALDE.

SANTA FE, *July 21st, 1744.*

I having seen this writing, I received it as presented, and in attention to the lands which the petitioner asks, the alcalde mayor of this town will inform me if they are royal vacant domain, and if prejudice will follow to any third person in making the grant of them. So I provide, and order, etc.

CODALLOS.

REPORT OF ALCALDE.

In the town of Santa Fe, this 22nd day of July, 1744, in obedience to the order of the sergeant-major, Don Joachin Codallos y Rabal, governor and captain-general of this kingdom, I, Antonio de Hulibarri, alcalde mayor of this town, state that my information to your lordship concerning the lands petitioned for as a grant is that the petitioner has occupied them a part of the time extrajudicially and the other part of the time by virtue of the grant, and that this has been without any prejudice to any third person to the present time. May your lordship be

pleased to make the grant petitioned for to serve a person who has many times served His Majesty, and whose deceased father was employed in the highest military and political services to this Kingdom, and petitioner has an increasing family, a wife and children.

83 This is my information to your lordship, so that you may order that which you shall consider for the best, etc.

ANTONIO DE HULIBARRI.

DECREE OF GRANT.

In the town of Sante Fe, the 23rd of July, 1744, I, Sergeant-Major Don Joachin Codallos y Roibal, governor and captain-general of this Kingdom of New Mexico, its provinces and frontiers, having seen the petition of Alfonso Rael de Aguilar, contained in the writing on the foregoing page, and the information by Antonio de Hulibarri, alcalde mayor and war captain of this said town, stating no prejudice will be done to any other settler, and that the lands petitioned for are royal domain, therefore, in the name of His Majesty (God protect him), I make to the petitioner, his heirs and successors, the grant of the said lands, that he may cultivate and use then as he may deem best, without prejudice to any third person.

The possession of which land I commission Antonio de Ulibarri to give in the place and as asked for, and with the boundaries described in each direction, marking the boundaries with landmarks, showing the limits. So I provide and command, and sign this with the witnesses of my assistance, for want of a royal notary public, there being none in this Kingdom. Which I certify.

JOAQUIN CODALLOS Y RABAL.

Witness:

JUAN FRANCISCO DE ROA Y CARRILLO.

Witness:

ANTONIO AROMBARA.

84 ACT OF POSSESSION.

In the town of Santa Fe, the 24th day of July, 1744, I, Antonio Hulibarri, alcalde mayor and war captain of this said town, state that in fulfillment of the command of Senor Sergeant-Major Don Joaquin Codallos y Rabal, governor and captain-general of this Kingdom, I passed over the lands asked for by Alfonso Rael de Aguilar, and being thereon I took him by the hand and he passed over them, pulled up grass, threw stones, and shouted "Long live the King, my lord," in sign of royal possession without any objection, I showing him the boundaries in the four directions, which were: On the east, with the lands of Melchoir Rodriguez, formerly of Beatriz Lucero, to an arroyo called that of Diego Balasquez, and thence along said east side along the boundary of the lands of Tomas Tapia, and on the west bounded by the lands of Domingo Baldez, and on the north the public highway that goes from this town to the Alamo, and on the south the road called the Camino de los Carros, which possession he received in the presence of the two witnesses, who were Gregorio Garduno and Francisco Rendon, both residents of this town. And that it may appear, I act with the

said witnesses as my assisting witnesses for lack of a royal notary public, there being none in this Kingdom, and on this paper, there being no sealed paper current in these parts.

All of which I certify. ANTONIO DE ULIBARRI,
Acting Judge.

Witness:
GREGORIO GARDUNO.
Witness:
FRANCISCO RENDON.

CERTIFICATE.

OFFICE OF SURVEYOR-GENERAL,
Santa Fe, N. M., June 20, 1878.

I certify that the foregoing is a true and correct copy of the original on file in this office.

DAVID J. MILLER,
Secretary in Chief of this Office.

85 *Grant to Joseph Romo de Vera, January 8, 1746.*

[Referred to in printed record, page 65.]

PETITION.

SENOR GOBERNADOR Y CAPTN. GENERAL:

Don Joseph Romo de Vera, vecino de esta villa como majaor troseda de derecho, paresco ante Vsa. y digo, que hillandome con cresida familia de muger propria e hijos y siendo como es, la dcha. mi esposa Da. Angela de Valdez y Marquez, decendiente por ambos linneas paterna y materna de conquistadores y pobladores de este reino de la Nueva Mexico, y no teniendo ningunas tierras para la mantencion de dha. mi famila, ocurro a la soberania de vsa. para que en nombre de su Magd. (que Dios ge.) sirva Vsa. de adjudicarme un pedaso de tierra que esta yermo y despoblado, rio abajo de esta villa; que por el oriente linda con tierras de Domingo Valdez, y por el poniente con Juan Joseph de Archuleta, y por el norte con Catalina Maese, y por el sur con el camino de los carros que sale de esta villa. Por todo lo qual a Vsa. pido y supplico se sirva mandar hacer, como lleve pedido, en qeu recibire merced, y juro lo necesrario en forma de derecho, etc.

JOSEPH ROMO DE VERA. [RUBRIC.]

DECREE OF GRANT.

En la villa de Sta. Fee de la Nueva Mexico, en ocho dias del mes de henero del ano de mio seitesos. quarenta y seis, ante mi, el Sargento Major, Don Joachim Codallos y Rabal, gov'r. y cap'n. gen'l. de dho. reyno, se presento esta pettision por el contenido en ella; la recebe por presentada, y en nombre de S. Mgd. (que Dios guarde), la haria,
86 hise merced de el pedaso de tierra que en ella se expresa y pide el suplicante, devajo de los linderos que refiere, para el dcho. Dn. Jph. Romo de Vera, sus heredos y subcesores, sin perjuicio de tecero y con justo titulo y dro. le pertenesca, de la cual le dara posescion, real

y personal conforme a dro., el alcede. mor. de esta villa, Dn. Antonio de Ulibarri, precediendo anttes citacion de los sircunvecinos y desta petison y decreto, con las demas diligencias, se entregaran a mencionado Dn. Joseph Romo de Vera pague se sirvan de titulo, y asi lo provei, mande y firme, con los testigos de mi asistencia a falta de escribano real y publico, que no lo ay en esta Reyno. Doy fee.

JOACHIM CORDALLOS Y RABAL. [RUBRIC.]

Witnesses:

ANTONIO DE ARANBURA. [RUBRIC.]
FELIPE JACOBO DE MANUEL. [RUBRIC.]

POSSESSION.

En esta villa de Santa Fe, en trienta dias del mes de henero, de mil setesientos quarenta y seis anos, yo Dn. Antonio de Hulibarri, alcalde maior y capt'n a guerra de esta villa, abiendo visto lo pedido por Dn. Joseph Romo de Vera y la mersed de la foga antesedente que la
87 está echa de los tierras que en ella se espresan extramuros de esta dha. villa, con lo qual me pidio y suplico le diese posecion real y personal de dhas. tierras, y aviendo presedido citasion de Felipe Tafoya y demas sircumvesinos y poniendolo en efecto lo coxi de la mano derecha y lo pasie por dhas. tierras, cuios linderos son los mismos que en el sitado pedimento refiere el dho. Don Joseph Romo de Vera, donde arranco yerbas, tiro piedras y yso otros actos de berdadera posecion, y de boses, diciendo viva Dn. Philipe Quinto, nuestro rey y senor (que Dios ge. muchos as.), en quio nombre racivo dha. mersed y no paresio persona alguna que ysiere contradiccion a dha. posecion, la que tomo que (torn) mente y se dio por entregado de dhas. tierras con todos sus entradas y salidas, usos y costumbres, derechos y servidumbres, hago el dho. alcalde maior que de todo doy fee; lo firme como jues receptor, actuando con los testigos de mi asistencia a falta de escribano publico real, que no los ai en este reyno. Doi fee.

ANTO. DE ULIBARRI, [RUBRIC.]
Juez Receptor.

Testigo:
JOSEPH MIGUEL GARDUNO. [RUBRIC.]
Testigo:
FELIPE TAFOYA. [RUBRIC.]
JOSEPH ROMO DE VERA. [RUBRIC.]

88 [Translation of the foregoing petition, grant, and act of possession given Joseph Romo de Vera of date Jan. 8th, 1746. Referred to in printed record, page 65.]

PETITION.

To the GOVERNOR AND CAPTAIN-GENERAL:

I, Joseph Romo de Vera, of this town, in the best approved form appear before your excellency and say, that finding myself with an increasing family, my wife and children (my wife being Angela de Valdez y Marques, descendant, both on her father's side and mother's side from the conquer/o's and settlers of the Kingdom of New Mexico), and having no lands for maintenance of my said family, I appear to your

excellency that you will in the name of His Majesty (God preserve him) be pleased to grant me a piece of land which is vacant and unsettled down the river from this town, which on the east is bounded by lands of Domingo Valdez, on the west by Juan Joseph Archuleta, on the north by Catalina Maese, and on the south by the Camino de los Carros leading from the town, all of which I request and beseech your excellency to be pleased to order and do as I ask it, that I may receive the grant, and I swear in form of right as is necessary, etc.

JOSEPH ROMO DE VERA. [RUBRIC.]

89 GRANT.

In the town of Santa Fe, New Mexico, of the 8th day of Jan., 1746, before me, the sergeant-major, Don Jaochin Cadallos y Rabal, govr. and captain-general of this Kingdom, this petition being presented, and received as presented, in the name of His Majesty (God save him), I grant, and have granted, the piece of land described and prayed for in the petition of the subscribed petitioner and the boundaries described by him, the said Joseph Romo de Vera, to him, his heirs and successors, without prejudice to any third party, and with just title and right with its appurtenances; and the alcalde mayor of this town, Don Antonio de Ulibarri, will proceed and give to him royal and personal possession, in conformity with right, citing the neighboring settlers, and furnish this petition and decree to the said Joseph Romo de Vera that it may serve him as title. So I provide, order, and sign, with my assisting witnesses, for lack of a notary public, there being none in this Kingdom.

Which I certify.

JOACHIN CODALLOS Y RABAL. [RUBRIC.]

ACT OF POSSESSION.

In this town of Santa Fe, on this the 30th day of Jan., 1746, I, Antonio de Hulibarri, alcalde mayor and war captain of this town, having examined the petition of Joseph Romo de Vera and the grant made upon this foregoing page of the lands therein described beyond the walls of this town, which said lands he solicits me to give his royal and personal possession, and I having first cited Felipe Tafoya and other neighboring settlers, who being there, I took Don Joseph Romo de Vera by the
90 right hand and with him passed over the said lands, whose boundaries are the same described in his said petition, and he pulled up herbs, cast stones, and did other acts of true possession, and in a loud voice shouted, "Long live Don Philip the Fifth, our lord and King (may God preserve him many years), in whose name I receive this grant;" and there appearing no one opposing said possession [torn] in said lands, with all its entrances and exits, its customs and rights, and all of which I, the said alcalde mayor, do certify and sign as acting judge, acting with the witnesses of my assistance for want of a royal notary public, there being none in this Kingdom.

ANT'O DE ULIBARRI, [RUBRIC.]
Acting Judge.

Witnesses:
JOSEPH MIGUEL GARDUNO. [RUBRIC.]
FELIPE TAFOYA. [RUBRIC.]

91 *Grant to Antonio Armijo, May 18, 1769.*

[Referred to in printed record, pages 62, 63, and 64. Certified copy of archive No. 44. From the original in the office of the surveyor-general at Santa Fe.]

Sn. Gobdor. y Cap. Genral. Antonio Armijo, vecino de esta villa, hijo legitimo de Jose de Armijo, ya defunto, conquistador de este reino, paresio ante Vs. en la menor forma que aya lugar y al mio convenga y digo, senor, que aunque tengo casa en que vivir y un pedaso de tierra que compre para sembrar, no es bastante para mi antencion, y por quanto tengo registrado un sitio de tierra en la otra banda deste rio de la viya, y dicha tierra esta yriasa y por eso yerma despoblada y realenga y conosiendo no perjuicio a persona alguna me motiva el por traeme a las plantas de Vs. para que V. S. gusta por quienes se digne desederme de merced en nombre de Su Magestad (que Dios guarde), dho. sition para rancho y abor; que en aserme el bien resebire merced y auxilio y deha. tierra; son sus linderos por la parte del oriente linda con tierras de Leonardo Gonzales y de Juan Antto. Archuleta, por el poniente lindo con linderos del alamo, por el norte linda con el camino que comunmente yaman de los carros, por el sur linda con tierras de Bernardino de Sena, el moso, y por estar prosima de siembra y es caso que se me probea en tiempo para empesar a cultivar y poner mis bacas en dho. rancho supplico a V. S. sy aya por conviniente se digne de cosederme propriedad y derecho a dcho. sitio, que pido en nombre de Su Magestad (que Dios guarde), y espero de la gran caridad de V. S. resevir consuelo; y juro en toda verdad no ser de malisia, &c.

ANTONIO ARMIJO.

92 En esta villa de Sta. Fee, en diez y ocho dias del mes de maio de mil setecientes sesenta y neuve anos, se presento la antesedente peticion por el conttenido en ella y en su vista attento a que los vasallos del Rey vecinos deste reino logren y desfruten las tierras realengas para su fomento, yo, Don Pedro Fermin de Mindinuetta, del Orden de Santiago, coronel de los reales exercitos, gobernador y cappitan general de este reino de la Nueva Mexico, dixe que consedia y de facto concedo de merced in nombre de Su Magested (que Dios guarde) a Antonio Armijo, vecino de esta dha. villa, cuatro cientos varas de tierra de labor en cuadro, en el lugar que menciona, cuia medida debe comensar desde el lindero de Leonardo Gonzales y Juan Antonio Archuleta, y se seguira por tierra realenga asta el completto de las cuatro cientas varas en cuadro sin perjuicio de tercero que mejor derecho tenga, y por que en las immediaciones de esta villa no es conveniente que ninguno tenga propriedad en tierras sino en las que sean compettente para su siembra por ser necesario haiga cogidos en que pastar los ganados no se le concede mas extencion que la de las dhas. cuatrosentas varas en cuadro y mucho menos la denominancion de rancho y solo se le permite fabricar cosa para recoger en ella su cosedra y corral para encerrar los gabados que tubiere sin que por este permision abandone su domicilio en esta villa y esta merced se la hago bajo los condiciones prevenidos en las reales leyes de no poder vender las tierras mercenadas a persona eclesiastica, en cuia conformidad mando al alcalde mayor de este villa Dn. Pfe. Tafoya pase a dar la posecion de las

tierras mercenadas a Antonio Armijo, precediendo cittacion de colindantes y no haviendo legitima contradicion de la dara real y personal y sacando testimonio de todo se lo entregara al mercenado para sus resguardo y debolvera los originales para ponerlos en esta archivo de gobierno,
93 y asi lo probehi, mande y firme con los testigos de mi assistencia con quienes actuo a falta de escribanos que de ninguno clase los hai en esta gobernacion.

Pedro Fermin de Mendinuetta. [rubric.]
Matheo de Perrannedonda. [rubric.]
Antonio Moreto. [rubric.]

En la villa de Santa Fe, en beinte dias del mes de mayo de setecientos sesenta y nueve anos, yo, Dn. Felipe Tafoya, alcalde mayor y capn. a gerra. de eya y su jurisdicion, en cumplimiento de la convicion que se me consede en el auto de merced que antecede, consedido por el Sr. Don Pedro Fermin de Mendinuetta, del Orden de Santiago, coronel de los reales exercitos de Su Magestad, gobernador y capn. gl. deste reino de la Nueva Mejico, pase a el paraje sitado en dha. merced, y estando en el con sitacion de Leonardo Gonzales y Juan Anto. Archuleta, Don Miguel de Alire, Dn. Thomas de Sena, todos vecinos de esta villa, que son los colindantes de las sitadas tierras mercenadas y en presencia de todos, pase a echar los medidos como se me manda en el sitado aucto de merced y respecto a que no se pueden medir las dhas. quatrosientas varas mercenadas en quadro, por el motivo de que por la parte del norte no ai tierras de labor por ser monte y arroyos, por el sur llegan las tierras de Tomas de Sena asta el arrollo de los Chamisos sin quedarle a Antonio Armijo por ese rumbo extension alguna, por cullo motivo medidas avian de ser quatro sientas varas en quadro de oriente a poniente quadrilongas, que alcansaron desde los linderos de Leonardo Gonzales y Juan Anto. Archuleta, que son la parte del oriente linderos de las tierras consedidas de merced a el dho. Anto. Armijo, y por el poniente alcanso dha. medi-
94 da asta un alto onde se junta el sitado arrollo de los Chamisos que se junta con la canada que comunmente yaman de Los Pinos, y no habiendo otros colindantes mas que los arriba sitados, y sin contradicion alguna, pase a dar la posecion rl. en nombre de Su Magd. (que Dios ge.) a el sitado Antto. Armijo, para cullo fin lo coji de la mano y lo pasie por las tierras mercenadas por dho. Sr. G. y Capn. Gl.; dio voses, dicen viva el Rey (que Dios Nuestro Sr. ge.), tiro piedras, arranco sacate, en sena de posecion, la que le di, y aprendio quieta y pacificamente sic contradicion alguna bajo las condiciones expresada en la referida merced bajo de los linderos senalados, que son por el oriente con tierras de los dhos. Leonardo Gonzales y Juan Antto. Archuleta, y por el poniente la sitada junta del arroyo de los Chamisos y can' da de Los Pinos, y por el norte el camino real de los carros que es la entrada y salida libre desta villa, y por el sur con el arroyo de los Chamisos que devide las tierras del sitado Cn. Tomas de Sena, quedandole por dho. biento sur las entradas y salidas libres a el monte a el espresado Antonio Armijo, a quien demanda que en todos los sitados linderos para su establesimineto y evitar discordias en lo venedero, pusiera mojoneras en cada lindero de piedra y todo; y para que conste lo firme yo, dho. alcalde mayor, como juez receptor,

con dos testigos de mi asistencia, con quienes actuo a falta de escribano publico ni rl. que no lo ay en este reino de ninguna clase. Doi fee.

PHELIPE TAFOYA. [RUBRIC.]

JOACHIN SAIS. [RUBRIC.]
ANTO. JOP. TAFOYA. [RUBRIC.]

95 I hereby certify that the foregoing on four pages has been carefully compared and is a true copy of a portion of archive No. 44 now on file in my office.

Done in Santa Fe this 29th day of August, 1892.

[SEAL.] E. F. HOBART,
Surveyor-General.

[Translation of the foregoing grant to Antonio Armijo May 18, 1769 (Exhibit No. 42). Archive No. 44. Referred to in printed record, pages 62, 63, and 64. No. 97. Year 1769. Grant to Anto. Armijo.]

PETITION.

GOVERNOR AND CAPTAIN-GENERAL:

I, Antonio Armijo, resident of this town, legitimate son of Jose Armijo, deceased, and one of the conquerors of this Kingdom, appear before you in the best form that may be, and say that though I have a dwelling house and piece of land which I bought for planting, it is insufficient for my support, and whereas I have registered a *gract* on the other side of the river of this town, which land is unsettled and vacant royal domain, wherefore without prejudice to anyone I appear before you that you may be pleased in the name of His Majesty (may God preserve him) to grant me said tract of land for a farm for agriculture, that I may be thereby aided as I need. The said land is bounded as follows: On the east by lands of Leonardo Gonzales and Juan Antonio Archuleta; on the west by the boundaries of the Alamo [of Miguel de Alire]; on the north by what is commonly called the Camino de Carros, and on the south by the lands of Bernardino de Sena (elmoso). The planting season is at hand, and I have but little time to remove my stock there and begin cultivation. Trusting you may grant me said tract of land, I ask in the name of His Majesty (may God preserve him), I swear this to be without prejudice, &c.

ANTONIO ARMIJO.

96 GRANTING DECREE AND ORDER TO GIVE JURIDICAL POSSESSION.

In this town of Santa Fe, the 18th day of May, 1769, in view of the foregoing petition presented and received, and considering that the King's subjects residing in this Kingdom should have the vacant royal lands for their maintenance, I, Don Pedro Fermin de Mendinuetta, of the Order of Santiago, colonel of the royal armies, governor and captain-general of this Kingdom of New Mexico, have granted and hereby grant in the name of His Majesty (God preserve him) to Antonio Armijo, resident of this town, four hundred varas square of agricultural land, at the place he mentions, the measurement to commence at the boundary of the land of Leonardo Gonzales and Juan Antonio Archuleta, extending upon the

royal domain four hundred varas square, without prejudice to any third party who may have a better right, and as in the vicinity of this town no one should have land which he does not cultivate, and with it should have no grazing land, only four hundred varas are granted to him as aforesaid, for a ranch, a house, and crops and corrals for the stock he may have, but not that he should abandon his dwelling house in this town. I grant him the said land upon the condition contained in the royal laws that he may not sell the granted lands to any ecclesia'tic. In pursuance whereof I order that the alcalde mayor of this town, Don Felipe Tafoya, shall give possession of the granted land to Antonio Armijo, calling the adjoining owners of the lands, and if they give testimony that they are not being prejudiced, you will place him personally in actual possession, and taking testimony thereof for the grantee's protection, return these originals to remain in the archives of the Government.

So I have ordered and provided and signed this with my
97 assisting witnesses, with whom I act in place of a notary, there being none of any class in this Government.

PEDRO FERMIN DE MENDINUETTA. [RUBRIC.]

MATEO DE PERRANNEDONDA. [RUBRIC.]
ANTONIO MORETO. [RUBRIC.]

CERTIFICATE OF JURIDICAL POSSESSION.

In the city of Santa Fe, this 20th day of May, 1769, I, Don Felipe Tafoya, alcalde mayor and war captain of this jurisdiction, in pursuance of the authority of the foregoing decree of grant of Don Pedro Fermin de Mendinuetta, of the Order of Santiago, colonel of the royal armies of His Majesty, governor and captain-general of this Kingdom of New Mexico, I went upon the land designated in said granting decree, and there being present by appointment Leonardo Gonzales, Juan Antonio Archuleta, Don Miguel de Alire, Don Tomas de Sena, all residents of this town, and who are the adjoining owners of the said granted lands, I proceeded in their presence to establish the boundaries as I am directed in the said granting decree, and as the said granted four hundred varas could not be measured square, because of there being woods and arroyos, on the north there is no planting land, and on the south the lands of Tomas de Sena reach as far as the arroyo de Los Chamisos, without leaving to Antonio Armijo any room whatever in that direction, I therefore measured otherwise to make the four hundred varas square, in length from east to west, reaching from the boundary of Leonardo Gonzales and Juan Antonio Archuleta on the east of the lands granted to Antonio Armijo, and westward said measurement extended as far as the Alto, where said Chamiso arroyo joins the canada called "de los pinos," and there being no
98 other adjoining owners than aforesaid I proceeded without objection to deliver possession of the land in the name of His Majesty (God preserve him) to the said Antonio Armijo. I took him by the hand over the lands mentioned by the governor and captain-general, and he pulled up grass and cast stones in sign of possession, shouting, "God save our lord, the King," and took the quiet and peaceable possession which I gave him unopposed, under the express conditions of said grant as to the

boundaries, which are: On the east, the lands of Leonardo Gonzales and Juan Antonio Archuleta; on the west, the junction of said Chamiso arroyo with the canada de los pinos; north, the camino de carros, the main wagon road to this town, and south by the Chamiso arroyo, which is the boundary of the lands of said Tomas de Sena, leaving him free passage to and from said woods. I ordered said Antonio Armijo to establish stone landmarks at all of said boundaries as a memorial and to prevent discords in the future.

In testimony whereof I sign my name as alcalde mayor and acting judge, with my two assisting witnesses, with whom I act for want of any public or royal notary, there being none of any kind in this Kingdom. Which I certify.

FELIPE TAFOYA. [RUBRIC.]

JOAQUIN SAIZ. [RUBRIC.]
ANTO. JOSE TAFOYA. [RUBRIC.]

99 *Archive 1147, A. D. 1815. Decree as to distribution of public lands.*

[Referred to in printed record, page 66.]

Don Felix Maria Callejo Del Rey-Bruder, Losado, Flores, Campeno, Montero de Espinola, teniente general de los reales exercitos, virey, gobernador y capitan general del esta N. E., presidente de su real audiencia, superintendante general, subdelegado de real hacienda, Minas, azogues y ramo del tobaco, juez conservador de este presidente de su real junta y subdelegado general de corros en el mismo reyno.

En bando publicado en esta capital el dia 23 de agosto de 1813, se inserto el real decreto de 4 de enero de aquel ano, que previno el repartimiento de los terrenos valdios o realengos, y habiendose dignado el rey nuestro senor aclarar las dudas que acaso pueden suscitarse sobre el contenido real decreto, se ha servido resolver lo que aparece de la real orden de 8 de junio del ano proximo pasado, que se me ha comunicado por el ministerio universal de hacienda, cuyo tenor es el siguiente:

"Excmo. Senor: Deseando el rey previnir las dudas que han empezado a suscitarse con motivo del decreto do 4 de enero del ano proximo pasado, relativo al repartimiento de terrenos, y que desaparezcan qualquiera competencias producidas por el olvido y falta de observancia de lo prevenido en las leyes de Indias y ordenanzas de intendentes, con grave perjuicio del real erario y de los propietarios que con arreglo a ellas hubiesen obtenido la adquisicion legal, se ha servido mandar que los Intendentes cumplan exactamente lo dispuesto en las mencionadas Ordenanzas acerca de la enagenacion de tierras, cuyo producto debe, como los demas de la real hacienda, servir a soportar las cargas de ella, y que en sus jusgados se atengan a lo prescrito en las leyes de Indias, y particularmente en la real instruccion de 15 de octubre de 1754, no admitiendose el menor recurso de corporacion ni pueblo alguno contra aquellas tierras, que ya deslindadas o medidas deben aplicarse a sus duenos en virtud de titulo de merced, composicion o compra, pues en manera alguna quiera S. M. que las interpretaciones en contrario de lo mandado, perjudiquen a sus reales intereses, ni a los de sus leales subditos en esos Dominios."

Y para que llegue a noticia de todos, mando se publique por bando en esta capital y en las demas ciudades, villas y lugares del reyno, remitiendose los correspondientes exemplares a los tribunales, magistrados y gefes o a quienes toque su inteligencia y observancia.

Dado en el Real Palacio de Mexico a 23 de septiembre de 1815.

FELIX CALLEJA.

Por madado de S. E. y Sorio.

100 [Translation. Referred to in printed record, page 66. Archive No. 1147, of date Sept. 23, 1815, City of Mexico.]

I, Don Felix Calleja Del Rey, Bruder, Losado, Flores, Campeno, Montero de Espinosa, lieutenant-general of the royal armies, viceroy, gov. and capt. genl. of this New Spain, president of the royal audencia, supt. gen'l. subdelegate of the royal treasury, of mines, of quicksilver, and of tobacco, judge conservator of these, president of the royal junta, and subdelegate-general of mails in the said Kingdom.

By proclamation there was published in this capital on the 23rd of August, 1813, the royal decree of January 4th, of said year, providing for disposition of the vacant lands or royal domain; and our lord the King desiring to remove any doubts there might be as to the meaning of that decree, has deemed it proper to proclaim what appears in the royal order of June 8th, of last year (1814), which was communicated to me by the ministry universal of the treasury, the tenor of which is as follows:

"MOST EXCELLENT SIR: The King desiring to clear up doubts that have arisen as to the interpretation of the decree of January 4th, of last year (1813) regarding the disposition of lands, and to correct whatever mistakes arose from forgetfulness or lack of observance of the provisions of the laws of the Indias and the ordinances of the intendentes, mistakes of grave prejudice to the royal treasury and to the owners of lands, who, complying with those decrees and ordinances, acquired lawful ownership, has seen fit to command that the intendentes shall comply strictly with the said ordinances in the alienation of lands, the product of which ought to contribute to the royal treasury; and that in their decisions they must be governed by what is prescribed in the laws of the Indies, and particularly in the royal instructions of October 15, 1754, not allowing the slightest appeal to any corporation or town whatever against those lands, which, having been measured or designated, must be adjudicated to their owners in virtue of title by grant, contract, or purchase; and His Majesty commands that contrary to what is thus ordered, no interpretation shall be made in prejudice to his royal interests or to those of his loyal subjects in these dominions."

And that this may reach the knowledge of everybody, I order its publication by proclamation in this capital and in the cities, towns, and settlements of this Kingdom, and that copies be sent to the tribunals, magistrates, and chiefs, for their information and observance.

Given in the Royal Palace of Mexico the 23rd of September, 1815.

FELIX CALLEJA.

By his clerk and secretary. [RUBRIC.]

101 *Copy of original of grant to Roque Lobato.*

[Referred to at pages 90, 92, and 93, printed record.]

EXHIBIT A.

Sr. Coronel Gobernador y Capitan General deste rreino, Don JUAN BAUTISTA DE ANZA:

Roque Tobato, harmero deste rreal presidio de Santa Fe, hante usia paresco en la maxor forma qe. halla lugar, i al mio conbenga, i digo, Señor, qe. por quanto me hallo sin un pedaso de tierra para poder bibir y fabricar casa y cultibar tierras para la mantension de mi familia, tengo rrexistrado un pedaso de tierra rrealenga en las orillas desta billa, por la parte del norte qe. con las chorreras del difunto Don Jose Moreno y del Bachiller Don Santiago Rroibal, las mismas qe. pido a usia en nombre del rrei mi amo (Dios le guarde), de merse, la qe. espero me hamplee en nombre de Su Majestad, posesionandome sin perjuicio de tercero. A usia pido y suplico sea mui serbido de faboreserme como yebo pedido; y juro en debida forma no ser de malisia, i en lo necesario, &c.

ROQUE LOBATO.

EXHIBIT B.

En la villa de Santa Fe, en veinte y tres dias del mes de septiembre de mil setecientos ochenta y cinco años, ante mi, el coronel de cavalleria de los rs. exs. de Su Magd., Dn. Juan Bapta. de Anza, governador y politico militar de esta prova. del Nuevo Mexco., se presento la antecedente peticion por el contenido en ella que huve por tal y admitida; y en atencion a su solicitud concedia y concedi en nombre de Su Magd. (D. g.) al expresado Roque Lovato la merced que pide, sin perjuicio de tercero, y con la calidad de que cultive las tierras que expresa, conforme a lo prevenido por las rs. leyes, y a efecto de darle real y personal posecion concesiono y doy facultad quanta de dro. se requiere al Segundo The. Dn. Jose Maldonado para que, en virtud de esta comicion, citando a los colinderantes, y no resultando el enunciado perjuicio lo verifique, midiendo las varas que tenga a todos rumbos que se expresaran en el correspondiente auto de posecion, como las mojoneras estables que devera poner el impetrante; y concluido todo se me hara remicion del original para asentar esta merced en el libro de govierno. Asi lo providencie, mande y firme con los testigos de mi asistencia, a falta de escribano publico ni real, por no haberle en todo este govierno, y en este papel que, a falta del sellado lo havilito por tal, y del sello tercero; de que doy fe.

JUAN BAPTA. DE ANZA.

Assa.: VICENTE TRONCOSO.
Assa.: FRANCO. PEREZ SERRANO.

EXHIBIT C.

102 En la villa de Santa Fe, en veinte y cinco dias del mes de Septiembre de mil setecientos ochenta y cinco, en virtud de lo mandado por el señor coronel y govnr. de esta provincia, Dn. Juan Baptista de Anza, comparescan los colindantes el dia de mañana,

que somos veinte y seis, que lo son Jose Pacheco, Phelipe Sandoval, y Franzco. Cayetano, con su escrituras de venta real, y asi mismo para que declaren si ay contraditorio en lo que pretende el ynpetrante, Roque Lovato, en la merced que solicita. Asi lo prohebi, mande y firme con los infrascriptos testigos de asistencia, a falta de escribano publico ni real, que de ninguna clase los ay en esta governacion; de que doy fee.

JOSSE MALDONADO.

Tgo.: BICENTE ARMIJO.
Testigo: SALVADOR NORO.

EXHIBIT D.

En la expresada villa de Santa Fe, en veinte y seis dias de dho. mes y año, pase en compañia de los testigos de asistencia al sitio que tiene rregistrado Roque Lovato, endonde comparecerron los

En esta villa de Santa Fe, en dies i ocho del mes de otubre de mil setecientos noventa y cinco, ante mi, Dn. Jose Miguel de la Peña, alcalde mayor y capitan a guerra de dicha villa y su juridicion, parecio ante mi, Josefa Armija, mujer que lo fue del soldado armero de este real presidio, Roque Lovato, quien doi fee, que por quanto haver causado una dependiencie su d'finto marido en la casa de Dn. Jose Ortiz, tuvo de poner en venta la casa de su morada y tierras i al soldado de esta villa de Santa Fe, Josef Ribera, por la cantidad de quatrocientos cinquenta de plata moneda merica, los que recibio a su entera satisfacion, y que asi mismo y por tanto otorgaba esta escritura en dicho soldado dandole la posecion, que parara en su poder, de que fue donada por el rrei nuestro señor (que Dios guarde), traspasando en el todo su derecho en dicha casa y tierras, las que se componen, siendo sus linderos por el oriente unos serros prietos, por el poniente el camino rrial que sale de esta villa para el rio arriba, el bordo que divide los ejidos del rrio de Tesuque y Santa Fe, y por el sur el camino del norte de la Muralla, como asi mismo dijo que no havria nadien que le pusiera pleito ni demanda ninguna, y que si en algun dia saliere alguno a poner algun perjuicio, que no sean oidos ni en juicio ne fuera del, y que saldra a la defensa asta dejarlo en quieta y pacifica posecion, pues tan justamente queda poseyendo por heverme dado su dinero limpio y a satisfacion. Y da poder a las justicias de S. M., y en particular a las de esta villa, para que con todo rrigor de dere-
103 cho le compelen y apremien a el cumplimiento de esta escritura, como si fuere por sentencia definitiva de juez competente pasada en cosa jusgada; y para cuyo sanamiento obliga sus persona y bienes habidos y por haber. Todo lo cual otorgo la dicha Josefa Armija, ante mi, que po auto como juez resetor, con los atestigos de asistencia por no haver escribano publico rrial en este rreino, y llo, dicho alcalde mayor, lo firme con los testigos de mi asistencia en la villa de Santa Fe, en dies i ocho dias del mes de otubre de mil setecientos noventa y cinco; de que doy fee.

JOSEPH MIGUEL DE LA PEÑA.

Tes.: SANDOVAL FERNANDEZ.
MIGUEL SAEN GARBISO.

[Translation of foregoing copy of grant to Roque Lobato.]

EXHIBIT A.

To His Excellency, Governor and Captain-General of this Kingdom, Colonel JUAN BAUTISTA DE ANZA:

I, Roque Lovato, armorer of this royal garrison of Santa Fe, in the best allowable form and most convenient to me, and state that whereas I am destitute of any portion of land to enable me to live and build a house, and cultivate land for the support of my family, I have *no*tered a piece of public land in the suburbs of this city on the north, being the adjoinings (chorreras) of Jose Morena, deceased, and of bachelor Santiago Roival, which land I ask to your excellency as a grant, in the name of my lord, God preserve him, and I trust will be given me, int he name of His Majesty, placing me in possession without prejudice to any third party.

I ask and pray that your excellency be pleased to grant me as I have requested, and I swear in due form not to act in malice, and as may be necessary, etc.

ROQUE LOVATO.

EXHIBIT B.

At the town of Santa Fe, on the 23rd day of the month of September, 1785, before me, Juan Bautista de Anza, colonel of cavalry in the royal army of His Majesty, civil and military governor of this province of New Mexico, the foregoing petition was presented by the party therein contained, which document I recognized and admitted, and in consideration of his prayer I have made and do make to the said Roque Lovato, in the name of His Majesty (whom God preserve), the grant he asks
104 without injury to any third party, and on the condition that he cultivate the land he refers to, in compliance with the requirements of the royal laws; and for the purpose of giving him royal and personal possession, I commission and confer all necessary authority upon Second Lieutenant Jose Maldonado, to the end that in virtue of this commission, and summoning the adjoining proprietors, and there resulting none of the injury referred to he may execute the same, measuring off the number of varas called for on each course, and which will be stated in the corresponding act of possession as well as also the permanent landmarks, which the petitioner will have to erect; and the whole being concluded he will transmit to me the original, so as to enter this grant in the Government book. Thus I provided, commanded, and signed, with my attending witnesses, for lack of a public or royal notary, there being none in all this jurisdiction, and on this paper, which, for want of stamped, I legalize as such as of the third seal. To which I certify.

JUAN BAUTISTA DE ANZA.

Attending: VICENTE TRONCOSO.
Attending: FRANCISCO PEREZ SERRANO.

EXHIBIT C.

At the town of Santa Fe, on the 25th day of the month of September, in the year 1785, in virtue of the command of Colonel Juan Bautista de Anza, governor of this province, the adjoining proprietors will come for-

ward the 26th (these being Jose Pacheco, Felipe Sandoval, and Francisco Cayetano), with their deeds of title, and also to state whether there is any objection in the matter of the grant applied for by the petitioner, Roque Lovato. Thus I provided, ordered, and signed, with the undersigned, my attending witnesses, for want of a public or royal notary, of which there are none of any kind in this jurisdiction. To which I certify.

JOSE MALDONADO.

Witness: VICENTE ARMIJO.
Witness: SALVADOR NORO.

EXHIBIT D.

At said town of Santa Fe, on the 26th day of said month and year, I proceeded, in company with the attending witnesses, to the tract of land registered by Roque Lovato, where there personally appeared the

(Balance of document lost or destroyed.)

At this city of Santa Fe, on the 18th day of the month of Octo-
105 ber, in the year 1795, before me, Jose Miguel de la Peña, chief alcalde and war captain of said city and its jurisdiction, Josefa Armijo appeared, formerly wife of the soldier Roque Lovato, armorer of this royal garrison, whom I know; that whereas her deceased husband having created a debt in the house of Jose Ortiz, he was obliged to sell to the soldier of this town of Santa Fe, Jose Ribera, the house of his residence and the land, for the sum of $450, in specie, which he received to his entire satisfaction, and that therefore she executed this document to the said soldier, giving and delivering to him the possession she held, which was granted by our lord the King, whom may God preserve, conveying to him all her right to said house and land, composed of and the boundaries being: On the east, some black hills; on the west, the main road running out of this city for Rio Arriba to the limits, which divide the pasture ground of the Tesuque River from Santa Fe; and on the south, the road on the north of the Muralla; and she also declared that there should be no one to interpose any suit or demand, and that should there at any time anyone interpose any obstacle, the same should not be heeded in court or out of court, and that she would proceed to the defense until leaving him in quiet and peaceable possession, for justly possesses it, having paid good money to my satisfaction therefor, and she gives authority to the justices of His Majesty, and particularly to those of this city, so that with full rigor of the law they may compel and oblige her to the performance of this instrument, the same as if done under definite judgment of a competent justice, pronounced in a matter adjudicated, and for the execution of which she binds herself and her estate, present and future; all of which the said Josefa Armijo declared before me, acting as special justice (juez receptor), with attending witnesses, there being no public or royal notary in this province, and I, said chief alcalde, signed this, with my attending witnesses, at the city of Santa Fe, on the eighteenth day of the month of October, seventeen hundred and ninety-five. To which I certify.

JOSE MIGUEL DE LA PENA.

FELIPE SANDOVAL FERNANDEZ.
MIGUEL JEAN Y ARLESE.

106 UNITED STATES OF AMERICA,
Territory of New Mexico, ss:

THE CITY OF SANTA FE
vs.
THE UNITED STATES ET AL. } No. 80.

I, James H. Reeder, clerk of the Court of Private Land Claims, do hereby certify that the foregoing pages contain a full, true, and perfect transcript of all exhibits introduced in evidence by the codefendants of the United States in the above-entitled cause on the trial thereof, and being all of the exhibits introduced in evidence in said cause, except those which are included in the transcript of record on appeal to the Supreme Court of the United States, certified to by me on the 20th day of December, 1894. And I further certify that the said transcript of record certified by me on the 20th day of December, 1894, together with the foregoing transcript, contain a full, true, and perfect transcript of all record entries of proceedings, and of all the files and papers in the cause lately pending in said court in which the city of Santa Fe was plaintiff and the United States of America et al. were defendants, as the same appear of record and on file in my office.

Witness my hand and the seal of said court at my office in Santa Fe, New Mexico, this 9th day of December, 1895.

[SEAL.]

JAMES H. REEDER,
Clerk C. P. L. C.
By IRENEO L. CHAVES,
Deputy Clerk C. P. L. C.

107 In the Supreme Court at Washington, D. C.

UNITED STATES
vs.
CITY OF SANTA FE. } No. 504.

STIPULATION.

In this cause it is stipulated that, without any formal suggestion of diminution of the record or motion for certiorari to bring up the record, the papers hereto attached are hereby made a part of the record in the above cause, and that the clerk shall print the same as a supplementary record, and attach it to the record already printed.

J. M. DICKINSON,
Assistant Atty. General, Counsel for Appellant.
T. B. CATRON,
Counsel for Appellee.

(Indorsement on cover:) Case No. 15761. Supreme Court U. S. October term, 1895. Term No., 504. The United States, appellant, vs. The City of Santa Fe. Stipulation and addition to record. Filed Dec. 20, 1895.

165-675

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CLERK.

165-675

In the Supreme Court of the United States.

OCTOBER TERM, 1895.

208.

THE UNITED STATES, APPELLANT,
v.
THE CITY OF SANTA FE, A MUNICIPAL CORPORATION.

No. ~~504~~. Santa Fe grant.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

BRIEF FOR THE UNITED STATES.

In the Supreme Court of the United States.

OCTOBER TERM, 1895.

THE UNITED STATES, APPELLANT, *v.* THE CITY OF SANTA FE, A MUNICIPAL CORPORATION.	No. 504. Santa Fe grant.

APPEAL FROM THE COURT OF PRIVATE LAND CLAIMS.

BRIEF FOR THE UNITED STATES.

STATEMENT.

This is an appeal on behalf of the United States from a decree of the Court of Private Land Claims, made on April 28, 1894, in the matter of the claim of the present city of Santa Fe, N. Mex., a municipal corporation organized and existing under the laws of the Territory of New Mexico, claiming to be the successor of the ancient Spanish town, formerly known as La Villa Real de San

Francisco de Santa Fe, or San Francisco de Assis de la Santa Fe, and properly called, from time immemorial, La Villa de Real de Santa Fe.

It is alleged in the petition that the present corporation has the same local situs as the ancient city of Santa Fe and jurisdiction over the same territory.

It is alleged that prior to the Indian insurrection in 1680 the city, by its old titles, was entitled to, and had, under the laws of the Kingdom of Spain in force in this Territory at that time, a municipal or pueblo grant conceding to and vesting in said Spanish town or villa a certain tract of land containing 4 square leagues, whereof the central point is the plaza of the present city.

It is also alleged that during the Indian insurrection of 1680 all the archives of the Spanish Government, including all the muniments of title of said municipal grant, were destroyed, and that petitioner is therefore unable to state particularly the date, form, or other particulars of said grant or muniments of title.

It is further alleged that prior to 1680 and at all times thereafter during the Spanish sovereignty over New Mexico, the villa contained a population greatly exceeding thirty-five families, and that there was no city, town, or village of Spaniards situated within 5 leagues of said town or villa; that said grant to said town or the villa of Santa Fe was in no way prejudicial to any pueblo of Indians or any private person.

That said town has been continuously for three hundred years, under the Governments of Spain, Mexico, and the United States, the seat of government of New Mexico and recognized as the capital city.

That during the whole period of Spanish and Mexican sovereignty the said town had a municipal government, with a municipal council or ayuntamiento, and all other appropriate municipal officials.

That the present population of said city is about 7,000 people, and that about 1,500 heads of families are living within said 4 square leagues, nearly all of whom own, occupy, and have improved the lands which they claim to hold under said grant to said town.

It is further alleged that there are claimed certain private land grants to individuals within said 4 square leagues, and that all of them are junior in date, subordinate, and subject to the said municipal grant, and that they are being asserted by claimants as independent and conflicting claims.

By the separate answer of the United States the historical recitals of the petition are put in issue.

It is denied that said grant is absolute and perfect as a municipal grant under the laws, usages, and customs of the Kingdom of Spain, and denies that there is or ever was a grant to 4 square leagues of land for the use of the inhabitants of said town or villa, or that by direct grant or operation of law any title to or interest in 4 square leagues ever existed in the town of Santa Fe.

It is admitted that certain portions of said land lying within the 4 square leagues are claimed adversely to the plaintiff under distinct, separate, and antagonistic claims, but whether said claims are well founded in law or fact it has no knowledge, and as to whether they are junior

in date to that of the town of Santa Fe it has no information other than allegations in the petition, for that the date of said grant to said town is unknown.

It alleges that the claim made by the plaintiff (the present city of Santa Fe) for 4 square leagues is unwarranted and unfounded in law and fact, in this, that no grant was ever made to any corporation of which the plaintiff claims to be the successor, nor was it entitled under the law, in the absence of a direct grant from lawful authority, to assume ownership over any portion of said land.

That whatever rights it may have obtained were obtained in the same manner and from the same authority that individuals were required to obtain their rights to real estate within the Spanish Indies.

The answer avers that the alleged predecessors of this plaintiff never at any time during the Spanish or Mexican control of the country claimed or pretended to claim or assert title to the said 4 square leagues, but only to that portion which was actually granted to it by the proper authorities in the manner provided by law in the year 1715.

It was also averred in the answer that a large portion of the property lying within the said 4 square leagues was appropriated and held by Spain, Mexico, and the United States at all times up to the present for public uses, free and independent of any municipal or individual rights and not subject to any municipal or individual control, but subject only to the control of said respective Governments.

The plaintiffs conceded this, and in the decree all property so held or now held by the United States was excepted from the operation of the decree of confirmation.

It is averred that no claim or assertion was ever made through any lawful channel or means or authority that the Spanish Government had granted to the villa of Santa Fe 4 square leagues of land, or that it was entitled thereto by operation of law, but that said claim is of recent origin, subsequent to the treaty of Guadalupe Hidalgo.

It is denied that the corporate limits and jurisdiction of this plaintiff are coextensive with the 4 square leagues described in the petition, and it is averred that said plaintiff has no authority for attempting to constitute itself a voluntary trustee for the prosecution of individual rights, if any exist.

There are a number of persons made defendants who are claiming large portions of the 4 square leagues described in the petition under independent individual grants, who have suits pending in the Court of Private Land Claims for confirmations under their grants. These have filed separate answers, and have set up their claims and introduced evidence to sustain the validity of the same.

These answers are found in printed record, pages 15 to 19.

It is alleged (Rec., p. 15) by Magdalena L. de Ortiz that on September, 1785, Governor Anza granted to Roque Lovato a tract of unoccupied land lying to the north side of the plaza of Santa Fe and within the 4 square

leagues; that she and her grantors have been in possession of the same ever since the 23d of September, 1785, unmolested and undisturbed, and which said right and title has at all times been recognized and respected by the plaintiffs and authorities holding under and representing it.

Record of the trial of this grant is found in printed record, pages 90 to 102.

The answer of the other defendants (Rec., pp. 16–19) sets up eighteen different grants lying wholly or in part within the 4 square leagues claimed by plaintiff and in which all the allegations of the plaintiff are put in issue.

It is also alleged that claimants under all these grants assert title adversely to that of the city of Santa Fe, and are in nowise subordinate thereto.

Upon the trial the plaintiff introduced a large amount of documentary evidence. (Rec., pp. 103–147.)

The greater portion of this evidence was for the purpose of showing when the villa of Santa Fe was established, and that it has been recognized as the capital city of New Mexico by Spanish, Mexican, and the United States Governments for nearly three centuries.

It may be admitted as historically correct that Santa Fe was occupied as a Spanish villa and was the seat of government prior to 1680.

The existence of the villa of Santa Fe prior to 1680 is admitted by the United States, but as to whether it had any continuous municipal existence during that time is not known, but from subsequent events it appears that at the time of the Indian insurrection in 1680 there existed magistrates and councilmen of the villa.

The province had for some years prior to 1680 been under the governorship of Don Antonio de Otermin.

The Indians drove the Spaniards out of New Mexico, and Santa Fe was razed to the ground. They retreated to Paso del Norte, now known as El Paso, Mexico, on the south side of the Rio Grande del Norte, where they remained for thirteen years.

In the year 1692 Diego de Vargas reconquered the Indians and entered the villa of Santa Fe, and shortly returned to Paso del Norte, leaving a priest in charge of the villa.

In December, 1693, De Vargas returned from Paso del Norte with his colonists and took formal possession and restored the government. (Rec., pp. 123, 124, and 125.)

From this date there has been quite a town settled on either bank of the little stream called the "Rio de Santa Fe," but as to whether there was any continuous municipal authority up to the date of the American occupation in 1846 does not appear. Since the treaty of Guadalupe Hidalgo there has not been a continuous municipal government. The record does not disclose the date of the origin of the present corporation, nor its limits and boundaries. Plaintiff does not claim that any direct grant was made to the old Spanish villa of Santa Fe, but that under the laws of the Indies, upon the establishment of a town by the Government there became vested in such town, as a municipal corporation or body, the title to 4 square leagues of land, with the plaza as the center.

The plaintiff introduced Mr. Will M. Tipton, the expert employed by the United States and assigned to the office of the United States attorney (Rec., pp. 22 and 23), to prove signatures to several documents and also to show the meaning of the word "*cabildo*," and Witness Gonzales y Chaves to show the existence of a city government prior to 1846.

Several histories were referred to (Rec., p. 24) showing historically the existence of Santa Fe. The other oral testimony on behalf of plaintiff (Rec., pp. 25–30) was for the purpose of showing the official character of records produced from the Territorial library, and is admitted by the Government.

The other is simply historical researches of the witnesses as to the ancient existence of Santa Fe, which is also admitted.

It may be admitted—

First. That the villa of Santa Fe existed prior to 1680, when it was destroyed, and was reestablished by the officials as the capital of the province.

Second. That it had from time to time a municipal government (whatever that may mean under the Spanish laws).

Third. That in 1680 the Spaniards were driven out and the town destroyed.

Fourth. That it was reestablished by De Vargas in December, 1693, and since that time it has existed as the capital of the province.

Fifth. That from time to time until the American occupation in 1846 it has had a municipal government, but whether it has been continuous does not appear.

Sixth. That in 1851 an act was passed incorporating the city of Santa Fe and defining its boundaries as follows:

> On the east by a line running north and south, and being one mile east of the centre of the plaza of said city; on the south by a line from said last line west, one mile distant from the plaza of said city; and on the west by a line from said south line running north, and one mile distant from said plaza; and on the north by a line intersecting said last and west lines running east and west, one mile distant from said plaza. (Laws of New Mexico 1851 and 1852 (Kearney Code), 112.)

Seventh. That the charter of the said city so granted in 1851 was by the next legislature repealed and the probate judge created trustee to wind up the municipal affairs and to become the custodian of its records. (Laws of New Mexico, 1851 and 1852 (Kearney Code), 272.)

No corporation existed after this time until the organization of the present plaintiff in 1891. Under the general laws of the Territory the municipal limits in the charter are as follows:

> All that certain tract of land situated in the county of Santa Fe, beginning on the west side at a stake marked No. 29, which is situated 200 feet west of the northwest corner of Irvine and Dunlop streets, and running thence north 50 chains to a stake marked No. 39, which is the northwest corner; thence east 130 chains to a stake marked 42, which is the northeast corner; thence 128 chains and 28 links to a stake marked No. 47, which is the southeast corner; thence west 130 chains to a stake marked No. 34, which is the southeast corner, and thence north 76 chains and 28 links to the said stake No. 29, the point of beginning.

The center point is 64 chains and 14 links due north of a point upon the south boundary, which is 6 chains and 46 links west of stake marked No. 13.

On behalf of the United States, it was contended that upon the formation of a town or villa by the Spanish Government, by its officials, in the absence of specific grant, there existed no law vesting in the municipality, upon its formation, the title to 4 square leagues or any other quantity of land, and that the villa never held directly or by operation of law 4 square leagues, as claimed. That whatever lands to which it at any time held title under the Spanish Government was by direct grant.

To sustain this position the United States introduced a large amount of documentary evidence. (Rec., pp. 147 to 178.)

(In the printed record each copy of Spanish document introduced is immediately followed by a translation thereof.)

The object of the testimony offered by the Government was to show that it was never recognized by the supreme authorities in the province of New Mexico and located at the villa of Santa Fe, the ancient capital thereof, that as a municipality it held the title to lands lying within any portion of the 4 square leagues unless given to it by direct grant.

The exercise of the power of disposition over the same by the various governors from time to time as they did in respect of all other lands in the province without any action on behalf of said municipal officers.

To this end Mr. Tipton made a careful examination of the archives, and the results are best told by his testimony, and the documents offered in evidence as he identified them.

His testimony can be found (Rec., pp. 32–42) and the documents and archives referred to (Rec., pp. 147–178).

In addition to what has been said, Mr. Tipton is also a practical surveyor and is familiar with the topography of Santa Fe and the country surrounding, as well as the name of natural objects called for in these various records.

After qualifying, he stated:

> Archive 422 (Rec., p. 33, also 35 and 36; a copy of this archive is found in Rec., p. 149), in the surveyor-general's office, is an original document of grant made by Don Diego de Vargas (printed Flores by mistake), governor of New Mexico, on the 15th day of January, 1693, to Juan Lucero de Godoi.
>
> These lands lie north of the Santa Fe Creek, and at least partially within the 4 leagues claimed by the city, and I am inclined to think entirely within.
>
> Archive 423 (improperly printed 425) is a copy of a petition and granting decree certified to by Manuel Tenorio de Alba, as secretary of the cabildo of Santa Fe, of the grant made by Don Pedro Rorige Cubero, on the 30th day of July, 1697, to Antonio Lucero de Godoi. These lands lie east of the grant to Juan Lucero de Godoi and north of the Santa Fe River. I think they come as far east as the road from Santa Fe to Tesuque. (Rec., pp. 33, 36, and 37, and copy, p. 153.)
>
> In private land claim number 4, in the surveyor-general's office, document marked "2" in red ink is a grant made by Don Juan Ygnacio Flores Mogollon on the 20th of August, 1715, to the cabildo of

Santa Fe, for land commonly known as the *cienega*. This grant does not claim to be a grant of all the property known as the cienega, but is a grant for a portion of it made subject to a prior grant made by the same governor to one Diego Arios de Quiros. (Rec., p. 33, also 37 and 38, copy 156.)

Reported number 137, in surveyor-general's office, is a claim for a grant alleged to have been made sometime prior to 1728. This claim has been acted upon by this court and confirmed for a portion of the area claimed, and it conflicts with the southern portion of the grant claimed by the city of Santa Fe.

This grant was before the Court of Private Land Claims and confirmed as to a portion which conflicts with the 4 leagues claimed by plaintiff and is now pending on appeal in this court in the case of *Louisa J. Purdy et al., appellants,* v. *The United States.*

Archive 85, in surveyor-general's office, contains two grants, the first made in 1728 by Governor Bustamente to Juan de Leon Brito, being a revalidation of a former grant made by Governor de Vargas for a tract of land lying east of the Pecos road and bounded on the north and south by two acequias used for irrigation by Captain de Vargas. This document is not original, but is a certified copy. (Rec., p. 33, also 38, copies 159 and 161.)

Reported number 89, in surveyor-general's office, is a grant alleged to have been made in 1731 to Manuel Trujillo. There is no granting document among the papers, but the case is based upon an act of possession. The grant has been surveyed by the United States Government, and, according to that survey, includes an area of about 1,000 acres. About three-

fourths of these are, according to the lines of the survey, in conflict with the grant made to the city of Santa Fe.

Reported number 68 is Luis de Armenta grant. This grant is alleged to have been made on the 11th day of December, 1732, by Governor Cruzat, the governor, to Luis de Armenta, for lands which are situated on what we commonly call the Las Vegas road or stage road. They are north of the chamisos arroyo and south of the acequia madre, and are entirely in conflict with the grant claimed by the city of Santa Fe. The Spanish paper in the surveyor-general's office, on which the claim is based, is not an original, but a certified copy made by Governor Anza in 1783. (Improperly printed 1733.) (Rec., pp. 33 and 34, also 38 and 39, copy 164.)

Archive number 180, in the surveyor-general's office, is a grant made by Governor Mendoza, on the 8th of August, 1742, to Gregorio Crespin. These lands are described in the petition as being north of the lands of Captain Sebastian de Vargas, east of Juan Felipe Rodriguez, and are claimed to be situated within the grant claimed by the city of Santa Fe.

The witness gives it as his opinion, from his knowledge of the country, as well as common report, that the grant must necessarily be partially situated within the Santa Fe grant. (Rec., pp. 39 and 40, copy 167.)

Archive number 24, in the surveyor-general's office, is a grant made by Governor Mendoza, the 20th of August, 1742, to Juan Jose de Archuleta, for a tract of land which the petitioner states is about one-fourth of a league from Santa Fe, and south of the highway coming to that town, which is the camino de los carros to which I have referred.

We deem it advisable to print in full the remainder of the testimony of Mr. Tipton, referring to the page of the printed record for copy and translation of the entries to which he refers.

A. (Continued.) The only other grants to which I find any reference in the archives, with the exceptions of these filed here as suits, are a number of grants referred to in a book in the surveyor-general's office, known as the book of the cabildo. This book is a book of memoranda as to grants which were presented to the cabildo, in order that note might be made of them in its archives; and judging from decrees in the surveyor-general's office of about that time, it would appear that these entries were probably made in accordance with a decree issued by Governor Mogollon, in 1713, requiring all persons who had original instruments of grants, wills, deeds, and instruments of that character to present them to the cabildo, in order that they might take certified copies of them and leave the originals in the archives. (Rec., pp. 174, 125, 126.)

Mr. FISKE. Have you that book; can you produce it?

A. (Witness produces book.)

Mr. BARTLETT. What cabildo is that, Mr. Tipton; what does it purport to be, this record?

Mr. REYNOLDS. Mr. Tipton, refer to that decree of Mogollon.

A. The original is downstairs. It was in 1713.

Mr. REYNOLDS. First, we offer in evidence the original decree of Governor Mogollon, July 21, 1713, together with translation of it, requiring the presentation of all grants to the cabildo.

Q. (Mr. REYNOLDS.) Mr. Tipton, identify the instrument you have before you.

A. This book is a paper belonging to the surveyor-general's office, manuscript, detached leaves, and it bears title, which I translate in this way: Book of cabildo, in which note is made of grants of lands and house lots made by the governors from the Marquis de la Nava de Brazinas to Senor Don Juan Ygnacio Flores Mogollon, who is the present governor in this Kingdom of New Mexico for the King, our lord, etc. On the last page of the book there is this language over the signature of Juan Paes Hurtado: All the grants that appear in this book, of which note has already been made, have been presented before me, General Juan Paes Hurtado, alcalde ordinario of this town of Santa Fe, where this is done, on the twenty-eighth day of December, 1713, and I signed it. Juan Paes Hurtado.

Q. (Mr. REYNOLDS.) Is that one of the records and archives of the surveyor-general's office?

A. Well, it does not bear any archive number. It is a record in that office, but it never appears to have had any number given it.

Q. Is the signature to the conclusion of it genuine?

A. In my opinion it is.

Q. It is now in the custody of the surveyor-general of this Territory?

A. Yes, sir.

Mr. FISKE. It seems to be a genuine document; I have no doubt of it.

Mr. REYNOLDS. I offer this document. I do not care to translate everything in it. I offer it for all purposes so far as this court is concerned, and the parts I want to use Mr. Tipton will designate now.

A. (WITNESS.) There is an entry in this book to the effect that Diego Marquez de Ayala presented a grant for 2 fanegas of corn-planting land and 2 of wheat, with a house, lot, and garden, which grant

was made by Governor Mogollon on March 11, 1713, the lands lying south of the river, and bounded on the north by the acequia madre. The description in the entry leads me to believe that these lands must have necessarily been within the 4 leagues now claimed by the city of Santa Fe. (Rec., p. 177.)

Another entry states that Francisco Martin presented a grant for 1 fanega of corn-planting land, which grant was made to him by Governor Cubero on March 6, 1703, in the royal lands on the other side of the Santa Fe River. The boundaries of the land are: On the east, the wagon road; on the west, royal lands; on the north, lands of Felipe Pacheco; and on the south, lands of Maria de Tapia. The Felipe Pacheco lands, which are recited as the north boundary of the lands of Martin, are claimed to be situated within the 4 leagues claimed by the city of Santa Fe, and suit has been brought for them in this court in suit No. 192. If the Pacheco lands be situated where they are claimed to be in the plaintiff's petition this land which joins them must of necessity be at least partially within the grant claimed by the city of Santa Fe. (Rec., p. 177.)

Another entry states that Maria Zapata presented a grant made by Governor de Vargas—no date is referred to, however—to Captain Jose Talles Jiron, being a piece of land in the town of Santa Fe, adjoining the lands of Juan Lucero de Godoi. The lands of Juan Lucero de Godoi are the first ones to which I referred to-day in my testimony and are described in archives 422. The recitals in these documents show that the lands were within the town of Santa Fe; consequently they must be in the grant claimed by the town, which includes the town. (Rec., p. 177.)

Diego Duran is said to have presented a grant made to him on the 29th of August, 1713, by Gov-

ernor Mogollon, for a house lot and garden adjoining the church in Santa Fe, and for a piece of tillable land on the margin of the cienaga. (Rec., p. 177.)

Captain Ygnacio de Roybal is said to have presented a grant on the 7th day of September, 1713, which grant was made to him on the 16th of February, 1698, by Governor Cubero, for a house and land which he had in the town of Santa Fe. (Rec., p. 177.)

On October 17, 1713, Sebastian Gonzales is said to have presented a grant made to him by the Marques de la Nava de Bruzinas on the 18th day of January, 1704, for lands on the river adjoining the lands of the convent. (Rec., p. 178.)

On December 13, 1714, Diego Lucero is said to have presented a grant made to him by Governor Cubero, on the 30th of July, 1697, in the town of Santa Fe. There is some recital in this entry that would seem to indicate that these lands are the same as are referred to in archive 423, being a grant to Antonio Lucero de Godoi, but this is not proved certain. These are the only entries in this book, of which I have made a note, as referring to land probably situated within the lands claimed by the city of Santa Fe. (Rec., p. 178.)

Mr. REYNOLDS. These are the entries to which we will desire to refer specifically, although we offer the documents in evidence.

Q. (Mr. FISKE.) These notes you have taken are taken from this document?

A. Yes; they are not a translation, but state the substance of the entries.

Q. (Mr. FISKE.) If the original paper differs in any way from such notes the original paper is right and you are wrong?

A. Certainly.

Q. (Mr. BARTLETT.) Are the boundaries to these grants set out?

A. In some cases the boundaries are mentioned; in others there are simply statements that the boundaries appear in the original instruments which were presented to the officer. In those to which I have referred I think there is some boundary mentioned to enable me to form an idea; but the paper shows.

The plaintiff offered in evidence the order of Pedro de Nava of 1791, and the United States offered the decree of Pedro de Nava of 1798. (Rec., p. 71.)

These two documents have been omitted from the transcript, but as both of them are simply laws or decrees with force and effect of law the court will take judicial notice thereof.

The order of 1791 is to be found in Hall's Mexican Law, page 42; Reynolds's Compilation, page 62.

The decree of Pedro de Nava of 1800 is made an appendix to this brief, No. 3.

The remainder of the record, 43 to 103, is devoted to the testimony of the defendants, who claim portions of the 4 square leagues by independent grants adversely to the city, and are made codefendants with the Government under the provisions of section 6 of the act.

These cases were tried as part of the Santa Fe Case, and also as independent cases, making an independent record.

Counsel in these cases offered a large number of grant documents showing grants by various governors to portions of land lying within the 4 square leagues. Copies and translations of these documents will be found printed

in the supplemental record. Mr. Tipton's testimony in relation to these is to be found in the record, pages 57 to 66 and pages 68 to 70.

It will be seen from this that the supreme authorities located at the ancient capital did not recognize the municipal boundaries as claimed, nor did they recognize that the title had passed by operation of law to the villa.

The court rejected the small grants that fell entirely within the Santa Fe grant.

In the case of *Jacob Gold et al.* v. *The United States*, Tayala Hill grant, the court rejected all that part falling within the 4 square leagues and confirmed it as to that part falling outside.

The Santa Fe grant was confirmed in the following language;

> All the lots within said 4 square leagues of land now held in severalty to the respective lot holders thereof holding said lots in privity with said Santa Fe pueblo grant, and all the residue of said 4 square leagues to the said city of Santa Fe in trust for the inhabitants thereof.

BRIEF.

A translation of the laws of the Indies, Book IV, titles 5 and 7, will be found as Appendix Nos. 1 and 2 to this brief, and title 12 of the same book will be found translated in Hall's Mexican Law, pages 17 to 25.

These three titles of Book IV contain all the laws of the Indies with which we are concerned in this case.

The plaintiff does not claim that an express grant was made to Santa Fe, but that the Spanish law in force at

the time of the establishment of the city, town, or villa, without further action vested in the city, town, or villa the title to 4 square leagues, which included the site of the town.

This proposition is contested by the Government for the following reasons:

First. There was no such law of Spain.

Second. There was no such custom of Spain or Mexico.

Third. The action of the supreme authorities in New Spain, especially in New Mexico, in granting large portions of the 4 square leagues to private parties, and also making to the "cabildo" of Santa Fe in 1715 a specific grant of the *ciencga*, lying within the 4 leagues, subject to a prior grant to Diego Arios de Quiros, negatived as a matter of fact the correctness of the claim by the plaintiff, and was a construction by the lawful authorities of the rights of the villa to land therein, and it seems to us that such action by the judicial and executive officers is conclusive against contention of the plaintiff.

Those who have made careful and diligent search for the laws relating to cities and towns all agree that there were only two ways provided for their establishment.

First. By virtue of an agreement with a person (empresario), whereby he was to establish a town upon the conditions prescribed by law and contract.

Second. By individuals associating themselves for that purpose and applying to the governor of the province, who thereafter controlled its formation and establishment. (Book IV, title 7, law 2, Appendix No. 1, Hall, secs. 114–125.)

With the first, that is, towns established by contractors (empresarios), we have nothing to do except as it may explain what we believe to be an erroneous view heretofore expressed as to the quantity of land appropriated or granted and the state of the title thereto.

The contention that 4 square leagues was the quantity of land set apart for all towns had its origin in the law fixing that as the basis upon which contracts with empresarios for the establishment of towns were to be made, and that law never applied to towns established by voluntary association of individuals under the control of the Government, and such towns were never limited to that quantity. The amount and character of the lands was left to the judgment and discretion of the governor. (Hall, sec. 120.)

Pedro de Nava, commandant-general of the four internal provinces, in 1791 promulgated an order as to *new* pueblos thereafter to be formed, fixing the maximum quantity of 4 square leagues within which commandants of presidios were authorized to distribute house lots and lands to soldiers and citizens; but this in no way conferred title upon the towns thereafter to be established of 4 square leagues or any other quantity of land, but simply limited the captains of the forts and garrisons (presidios) to that quantity in allotting house lots and farming lands to their soldiers and those settling at the fort. (Reynolds's Compilation, p. 62; Hall's Mexican Law, p. 42.)

This order was revoked on January 19, 1793, as being in violation of article 81 of the ordinance of intendants,

which gave the intendants exclusive jurisdiction over the sale, allotment, and composition of Crown lands in the provinces under their jurisdiction. (Reynolds's Compilation, pp. 29–63.)

Book IV, Title V, Law VI, of the laws of the Indies, provides for the formation of towns by contractors (empresarios), with at least thirty families, and if the contractor complied with all the conditions he was to have assigned him 4 square leagues of land in a square or oblong form, according to the conditions of the land, which was to be distributed among the colonists. (2 White, 44, sec. 59; Hall's Mexican Law, sec. 110; Reynolds's Compilation, sec. 44.)

This is the only place in any law of the Indies in which 4 square leagues are mentioned.

Law VII, same title, provides that if the contractor proposes to settle more or less than thirty families, not less, however, than ten, the corresponding boundary and territory shall be granted him, etc. (2 White, p. 44; Reynolds's Compilation, p. 45.)

It will thus be seen that the 4 leagues for thirty families was the basis of contracts for establishment of towns, and the amount granted to the contractor is proportionately above and below that amount, according to the number of settlers he might bring.

Book IV, title 7, law 7, provides for a division of the lands between the contractor and the settlers. (Hall's Mexican Law, sec. 112.)

So that under this plan of forming a town the title never vested in the municipality as a corporation or aggregate body, but in the contractor and settlers.

Book IV, title 7, law 2, laws of the Indies, prescribes the manner in which towns were established by the Government. (Appendix No. 1, Hall, sec. 114.)

The governor, after examination and becoming satisfied, determined whether the town to be established should be a city, villa, or place; and in conformity with his declaration to that effect, the municipal government was formed.

We suggest that it can hardly be contended that a "*place*" would or should have as much land as a "metropolitan" city.

In the establishment of towns by the Government the governors or supreme authorities in the various provinces were not limited in the amount of land that might be appropriated for that purpose to any quantity. All land not actually allotted to the settlers still remained the property of the King, subject to be assigned to anyone who might apply and satisfy the supreme authorities in the province that it should be assigned to him; in other words, to all lands not actually assigned and granted the *jus disponendi* remained in the King to be disposed of by him or those upon whom he might confer that power.

Our conclusion as to Book IV, title 7, law 14, after a very careful examination of the archives and history of the country, is that the city of Santa Fe was not established and formed under the law relating to contractors, nor that prescribing the manner of the formation and establishment of towns by the Government, but was simply the result of the supplanting of the Indians by the Spaniards at a place where the Indians seemed to have had their general seat of government.

It must be remembered that Santa Fe, according to historians, seemed to be the objective point of all religious, political, or pecuniary expeditions.

There can be no reasonable doubt that prior to 1600 Europeans had arrived in Santa Fe from the East, and they went southward bearing tales of fabulous wealth, resulting in Coronada's expedition in 1540.

Why did these pilgrims stop at Santa Fe to rest and refresh themselves before proceeding southward, unless it was that they found the natives at this place hospitable enough to give them succor?

It is true, historians disagree as to dates and as to whether there was an Indian pueblo at Santa Fe in those early times, and later investigators seem to have arrived at the conclusion that no pueblo existed there when the Europeans first arrived. But no historian has yet had the assurance to venture an opinion why this place, of all in the province, has been the objective point of all expeditions, unless it was, as tradition goes, the great capital of the Kingdom of the Teguas and Tanos Indians. They do admit, casually, that from the earliest information they can obtain ruins of a very large pueblo were to be seen which must have been that of Indians.

The title to the property in New Spain was vested in the King and formed part of his personal exchequer and could only be divested with his consent and in the manner he might designate, which he did in the formation of the Council of the Indies. It will be noted that the Council of the Indies was formed for the purpose of administering the King's personal domain. A distinction

must be drawn here between the property of the Government such as we understand it, and this character of property of the King. It is true that in an absolute monarchy the King may be said to own his country and his people, but in a political sense a distinction should be drawn between the property that he held for his own personal benefit and that over which he had simply the political dominion.

Lands in New Spain fell within the former class. In providing the manner of disposition of his property, a very careful and complete system was framed for the disposition of lands in New Spain. This system is quite as intelligible and not more complex than our own.

There has been expended upon the question of the disposition of the property in New Spain of the King, from time to time, an immense amount of learning, until to those who have not been compelled to assume the task of trying to work out a systematic and intelligent system, it seems on the surface unfathomable.

Commencing with the laws applicable to cities, towns, and villas, we find a very complete and orderly system in Book IV, titles 5 and 7, Appendix No. 1, and title 12, Hall, 17.

Book IV, Title V, relates to the establishment of cities, towns, and villas under the contract between the King, through his lawfully authorized agents, and an individual contractor or contractors commonly called empresarios.

These contracts were provided for specifically, and so careful was the Council of the Indies that minute regulations were promulgated as to the manner in which these contracts should be executed.

Under this title is the first and only place to be found in the laws of the Indies wherein any quantity of land is mentioned for a city, village, or place. As we have suggested before, the contention that 4 square leagues was the quantity of land set apart for all towns had its origin in Law VI of said title, but which is fully explained by Law VII of the same, which is as follows:

> If anyone should propose to contract for a settlement, in the prescribed form, to consist of more or less than thirty heads of families, provided it be not below ten, he shall receive a grant of proportionate quantity of land, and upon the same condition. (2 White, p. 44, secs. 59 and 60.)

Construing laws 6 and 7 together, it will be seen that 4 square leagues was fixed as a basis of all contracts with empresarios for the establishment of cities, towns, and villas.

Law X, 2 White, section 63, provides that, in the absence of an empresario, individuals might unite for the purpose of forming a settlement (place), but there should not be less than ten married men, and in that case there should be granted them a proportionate quantity of land depending entirely upon the number of heads of families.

Construing this law in connection with laws 6 and 7, it is plain to us, at least, that the quantity of land which such settlements might have depended upon the number of heads of families, reckoning from 4 square leagues as the basis for thirty heads of families.

So that an establishment of a town or settlement with sixty heads of families would entitle them to have 8 square leagues of land set apart, if in the opinion of the governor it was necessary and he would so contract.

It will be borne in mind that the governors-general of the provinces have been held to be, in respect of the disposition of the public lands under the Spanish laws, the *alter ego* of the King. He was not compelled to grant any quantity of land, or even permit the establishment of a town, unless in his judgment he saw proper; and if he saw proper could permit the establishment of a town either by contractors or otherwise. The quantity of land that might be set apart was left entirely to his discretion, and it might be here said that laws 6, 7, and 10 were purely and simply directions to the governors-general as to the general plan and theory of forming settlements and towns in New Spain.

We desire to impress upon the court the fact that Santa Fe was not established by the Mexican Government. If the allegations in the petition and the proof offered by the plaintiff have any force, it must forever carry the city and its rights to any lands out of the labyrinth of confusion that seems to have grown up under various special orders and the Mexican law as applied to the city of San Francisco.

It was attempted to be proven by the plaintiff, and is admitted by the Government, that Santa Fe prior to 1680 was a city, village, or place; that it was the capital of the province; that it was destroyed in 1680 and reestablished as the official capital in 1693, and has since that time been the official capital of the province, department, and Territory of New Mexico.

It is admitted by the United States that there was at the city of Santa Fe, from time to time, alcaldes mayor,

regidores, cabildos, and ayuntaminetos. This record fails to disclose and history seems to be silent upon the subject that Santa Fe ever acquired any rights as a municipal organization or as an aggregate settlement from the Mexican Government or the United States, so that we are relieved from the intricacies that surrounded and were involved in the San Francisco litigation.

The simple proposition after all is, What rights, if any, did Santa Fe acquire from the Spanish Government and under its laws?

It evidently acquired none under the Mexican Government, and it has acquired none under the United States Government.

Bearing in mind that the orders of Pedro de Nava of 1791 and 1798 related alone to towns in Upper and Lower California, and bearing in mind also that the laws of Mexico had no application to Santa Fe, we are remitted to the laws of the Indies in trying to determine what rights, if any, the city of Santa Fe acquired to any property as a municipality.

Mr. Hall, in his work upon Mexican land laws, has investigated very carefully the laws relating to the establishment of pueblos or towns, having in mind the litigation over the title to the site of the city of San Francisco. The result of his investigations is to be found in chapter 7 of his work, commencing on page 49. This chapter is also devoted to titles acquired under the law of 1813, and those promulgated thereafter.

Except as a matter of history, we have nothing to do with these later laws in attempting to reach a determina-

tion of the character of the title to the lands claimed by the city of Santa Fe in this suit.

The special attention of the court is called to this chapter as throwing a great deal of light upon the titles to old Spanish towns, and in section 117 he takes occasion to say that towns formed under the control of the governors independent of contractors "were only limited by the discretion of the governors of the province and viceroy, and subject to the approval of the King. There are many pueblos in Mexico which have less and many which have more than 4 square leagues." Referring, from this observation of Mr. Hall's, to Book IV, title 7, law 2, laws of the Indies, wherein it is provided that upon the establishment or attempted establishment of a town the governor is required to determine whether it was to be a city, villa, or place, we are forced to the conclusion that the property to be appropriated, either by direct grant or operation of law, would not be the same for a city as for a villa or place.

Surely a settlement of 30 heads of families would not require as much land for any purpose as one of 500 heads of families.

The law provided for certain uses of lands set apart for the establishment of a city, villa, or place.

First. *Solares*, house lots.

Second. *Suertes*, lands given to lot owners for cultivation.

Third. *Proprios*, lands set apart to be rented in order that revenue might be derived.

Fourth. *Ejidos*, lands which were set apart for recreation, commonly designated as playgrounds or commons.

Fifth. *Dehesas o montes*, lands for pasturing the stock of the community, and from which to obtain wood and water.

It seems to us impossible to have these designations made and the amount fixed except by some of the officials authorized thereto taking some definite action.

The idea that upon the establishment of a city, villa, or place, and having it officially recognized, there vested a municipal proprietorship to 4 square leagues, and from that municipality all titles must thereafter be derived, can not be sustained either by law or custom, and particularly is this true of Santa Fe as appears by this record.

But running all through Spanish laws was one principle which we should bear in mind in this case, as well as all others, whether town or individual grants, that it was the desire of the King to impress upon his officials in New Spain that no more land should be disposed of than was necessary for the maintenance and the propagation of the colonization of the newly discovered country. Owing to the sparsely settled condition of the country and the dangers from the native savages, every inducement for the collection of his subjects in towns and communities for the purpose of mutual protection, and the amount of land was discretionary. At no time did he relinquish the right to settle in any community or town other of his subjects than the original settlers, when vacant lands upon which they might be located could be found. Lands not reduced to private ownership, although they might be included within the district of country subordinate to a cabildo, the ayuntamiento, or alcalde

mayor, or even the alcalde ordinario, still the *jus disponendi* he still retained, and so far as the city of Santa Fe is concerned, that right passed to the Mexican Government, but was never exercised, and passed to the United States unchanged. All land in the 4 square leagues or the city of Santa Fe, according to its present corporate limits, over which the *jus disponendi* had not been exercised by the Spanish or Mexican Governments, is by virtue of the stipulations of the treaty of Guadalupe Hidalgo now vested in the United States. The act creating the Court of Private Land Claims has not authorized the court to pass that right or title, or to exercise that *jus disponendi*.

The record shows that almost every foot of land within the 4 square leagues claimed by the plaintiff has been disposed of, not by the act of any municipal body or official, but by the governor exercising the right of disposition which the King reserved to himself, and there is no evidence in this case that the *ayuntamiento* of Santa Fe, or the *cabildo*, or the *regidores*, or the *alcalde mayors*, or the *alcalde ordinarios* have undertaken to dispose of a foot of land within the 4 square leagues. But we have introduced on behalf of the Government, archive evidences of the fact, that the cabildo of Santa Fe, in 1715, obtained from the King through his *alter ego*, the governor, a specific grant to the *cienega*, subject, however, to the rights of a former grant made by these same authorities. Why does not this action furnish very strong presumption that the claim of the plaintiff is not well founded and extravagant?

As further evidence of the fact that New Mexico did not fall within the provisions of the special orders made by Pedro de Nava in 1791 and 1798, said to be applicable to California, we have a special order issued by Pedro de Nava in 1800 in relation to the reestablishment of the town of Socorro, wherein he takes particular pains to say that upon the reestablishment of the town of Socorro 4 square leagues shall be set apart for that purpose. (Appendix, No. 3.)

If, upon the establishment of a city, villa or place by the Government, or its recognition by the officials, there vested in it for any purpose, 4 square leagues, why should Pedro de Nava, in 1800, take particular pains to designate 4 square leagues as the quantity to set apart for that purpose? (Appendix No. 3.)

It is not shown by this record, nor by history, that a single lot owner in the present city of Santa Fe deraigns title from the ancient municipality of Santa Fe. The absence of this fact is of great significance, especially so when the record is replete with the exercise of the right of disposition of the lands lying within the city of Santa Fe by the governors from time to time. And it will be noted that the boundaries of these various grants have no relation to the boundaries of the 4 square leagues. Some of them are entirely within and a large portion of them are partly within and partly without the area of the 4 square leagues.

After careful examination of the matter our conclusion is, that there never was a direct grant or one by operation of law to the city of Santa Fe by the Spanish

officials or by its laws; nor was it ever intended that the municipality, whether it was such a corporation as we know to-day, or an association of individuals, or body aggregate, should have ownership of any large extent of territory in the absence, at least, of a specific grant by the representatives of the King.

The reasons for this conclusion are, that it was the official capital, the governor-general was located there, and all of the people and all of the property remained under his immediate supervision and control, and to his discretion alone was left the right and authority to say who might live at the official capital and the conditions under which such occupancy might exist.

Looking at the matter from a practical standpoint, what reason can be given for placing a limit upon the broad and general powers of the governors which this court in the Florida cases admitted existed?

The King's domain was at the disposition of the governor, and the modern attempt to limit the extent of his authority to assign or allot 4 square leagues is incomprehensible to us.

We have examined Dwinelle's Colonial History of San Francisco, only to be still more firmly convinced that the attempt to sustain the proposition, of general application, that upon the establishment of a city, villa, or place by officials of the Government there vested in it the title to 4 square leagues of land, has been unsuccessful. He states, evidently with some caution, that conceding there was no grant, "it was enough that every pueblo when it reached a certain state of development became

ipso facto entitled to certain rights in land," but he does not name the quantity nor the dignity of the alleged right.

We must not confuse the title claimed by the city of Santa Fe by applying any Mexican laws nor any special orders that may have been issued in relation to California nor *new* towns to be established subsequent to 1789, the date of the Pitic order fixing 4 square leagues for that town.

Santa Fe must rely for its claim on the laws of the Indies in force in 1693, when Diego de Vargas reestablished them, and those in force prior to 1680, for it is not shown by history or otherwise that any action was taken by the Spanish Government in relation thereto, except the grant of the *cienaga* in 1715, nor that the Mexican Government ever by any action passed any rights to it by any official action or otherwise.

A majority of a quorum of the justices of the Court of Private Land Claims were misled, we think, by the decisions of this court in several cases relating to Mexican towns, to which we shall now take occasion to refer, and particularly those relating to the San Francisco title.

The litigation over the title to the site of the city of San Francisco has been a fruitful source of much legal fiction indulged in by lawyers engaged in it, and much that has been written upon that subject had been better left unwritten, as it resulted in no satisfactory conclusion to lawyers employed, the profession, or the bench.

There was no satisfactory or practical result reached; and a little confusion in the beginning was left much

confounded, so that legislation, arbitrary in its character, by Congress, the legislature of California, and the city council (Van Ness ordinance) was necessary to relieve the same.

The decisions of this court and the courts of California in relation to the title to the site of the city of San Francisco have no application to this case, as that was a Mexican town, while Santa Fe, an ancient Spanish town, often claimed to be older in its establishment than St. Augustine, Fla. California from 1791 was subject to special regulations; New Mexico not.

In the case of *Townsend* v. *Greeley* (5 Wallace, 326) Mr. Justice Field, for the court, said (366):

> At the date of the acquisition of this country pueblos or towns were entitled to the use of lands constituting the site of such pueblos and towns and adjoining lands within certain prescribed limits.
>
> This right appears to have been common to cities and towns of Spain from an early period in her history, and was recognized in the laws and ordinances for the settlement and government of her colonies on this continent. These laws and ordinances provided for the assignment to the pueblos or towns, when once established and officially recognized, for their use and the use of their inhabitants, of 4 square leagues of land.

We do not intend to enter into a discussion of the correctness of this historical statement, for the laws of the Indies, as found in Book IV, titles 5 and 7, Appendix Nos. 1 and 2, and title 12, Hall's Mexican Law, Chapter III, page 17, cover this subject so far as the rights of Santa Fe are concerned.

As applicable to San Francisco, there might have existed some question by reason of the order called the plan of Pitic and subsequent special orders in 1791 and 1798, by Pedro de Nava, relating to *new* pueblos and those in California. Surely Santa Fe could not be classed in 1798 as a new pueblo; if so, this record is an anomaly.

The opinion doubts the nature of the title which the pueblos held to the lands, and says, "ownership in the lands could not in strictness be affirmed."

After carefully investigating the question as to the grade of title recognized by the King—and this investigation has not been confined to declarations contained in laws and decrees, but to the manner in which rights under grants have been treated in New Mexico—we are satisfied that no such title as *fee simple* under the common law ever existed under Spanish or Mexican jurisprudence, and our reason for such conclusion is that the *right of perpetual succession* was unknown. It is true that the highest grade of title was often passed, but in case the grantee left his property vacant for any considerable length of time the King or his officers might, and often did, regrant the same to other applicants without any proceedings of denouncement; the theory being that constructive possession would not retain ownership as against the King. It was his purpose to force the actual use and occupation by some one. If a house lot which had been granted to a subject became vacant and abandoned, the same might again be granted to an applicant, who obtained, as against the former grantee, an absolute title. The conclusion we have come to is, that as to all

vacant lands unapplied to useful purposes, whether in towns or country, the right of disposition remained or became vested, *ipso facto* upon abandonment, in the King, and that right, upon independence, became vested in Mexico, and where not exercised, under the treaty became vested in the United States.

The absence of any proof of the affirmative exercise of this right by the Spanish or Mexican Governments must leave it now vested in the United States. The right to a confirmation by the Court of Private Land Claims depends upon an exercise by the Spanish or Mexican Governments of the right of disposition, so as to pass a vested interest which that Government would be compelled to make complete so far as its laws permitted. The record fails to show any exercise by Spain or Mexico of this *jus disponendi*.

The case of *Grisar* v. *McDowell* (6 Wallace, 363) is substantially an affirmation of the opinion in *Townsend* v. *Greeley*.

We contend that these cases indicate that there must have been some affirmative action on the part of the Government officials by assigning the lands to the city, villa, or place, which negatives the idea of vesting by operation of law of land in the city.

In this case the court say (373):

> The purposes to be accomplished by the creation of pueblos did not require their possession of the fee. The interest * * * amounted to little more than a restricted and qualified right to alienate portions of the lands to its inhabitants for building or cultivation, and to use the remainder for commons

> for pasture lands, or as a source of revenue or for other public purposes; and this limited right of disposition and use was in all particulars subject to the control of the Government of the country.

If the foregoing declaration is correct, the right of disposition and use is vested in the United States, and the exercise of a *discretionary* control over the title has not been delegated by the political branch of the Government to the judiciary.

The case of *Brownsville* v. *Cavazos* (100 U. S., 138) has no real application to Santa Fe, according to the statement of the case, to wit:

> Previous to the revolution which separated Texas from the Republic of Mexico, Brownsville constituted a part of Matamoras, which was recognized as a town in 1826 by a decree of the Congress of Tamaulipas, one of the States of Mexico.

The declaration is the same in substance as announced in the two cases before referred to, but in support of the proposition that such recognition of 4 league rights was recognized by Spanish law, 2 White, page 44, is cited.

Upon examining the citation, it is found to be a translation of Book IV, title 5, law 6 of the laws of the Indies, and applies only to towns to be established by contractors (empresarios), and has no application to cities, villas, or places formed by voluntary association of not less then ten heads of families under the direction and control of the governor.

We have in the earlier part of this brief discussed this law and law 7, also law 10. (White, pp. 44 and 45.)

We insist that an error has been committed which has already resulted in expensive controversies by not distinguishing between contract towns and voluntary or government establishments—the latter were not limited in extent, except by the action of the granting officer. No title passed to any individual or the town or settlement without affirmative action on the part of the governor.

In conclusion, we submit the following propositions:

First. The record discloses the fact that the supreme authorities in New Mexico never recognized a 4-league title in the villa of Santa Fe.

Second. The evidence shows that nearly all the land within the 4 square leagues was attempted to be granted by the governors from time to time to individuals, in various quantities, without regard to municipal limits.

Third. The governor in 1715 did grant, upon petition of the cabildo, the *cienega* which lies within the present corporate limits, subject, however, to the rights under a former grant to Quiros.

Fourth. There is entirely absent from the record any testimony tending to show any acts of ownership or control by the municipality or its officers over the lands claimed.

Fifth. It does not appear, except from the allegations of the petition, that a single property owner claims under the city or can show that his title was derived therefrom.

Sixth. It does not appear that the Republic of Mexico or any of its officials ever took any action upon this title or ever granted to the city any lands.

Seventh. Whatever rights the city may have, the authority therefor must be found in the laws of the Indies, and not under special orders made subsequent to 1776, the date of the creation of the office of commandant general; nor under the laws of Spain passed by the Cortes in 1813, nor under the laws of Mexico passed subsequent to independence.

We submit that the opinion of the majority of the court is not sound when applied to this record, and that the dissenting opinion of Mr. Justice Murray is the law of the case.

Respectfully submitted.

J. M. Dickinson,
Assistant Attorney-General.

Matthew G. Reynolds,
Special Assistant to the Attorney-General.

Appendix No. I.

FROM RECOMPILATION OF LAWS OF THE KINGDOMS OF THE INDIES, VOL. II, MADRID, 1681.

BOOK FOUR—TITLE FIFTH—OF SETTLEMENTS.

Law I. That the lands and provinces selected for settlement shall have the conditions set forth.

Don Felipe II, ordinance of settlements, 34, 35, and 36.

We order, That it having been decided to settle any province or district of those which are under our control, or which may be discovered hereafter, the settlers shall consider and investigate as to whether the land is healthy, and ascertain whether there are in it men of great age and young persons of good complexion, condition, and color; whether the animals and herds are sound and of proper size, and the fruits and products good and abundant, and the lands suitable for cultivation and harvest; that the climate is good and fine, clear, and benignant, the air pure and soft, without variations or alterations, the temperature without excessive heat or cold (and they having to elect the one or the other condition, they shall elect the cold); whether there are pastures suitable for stock raising, woods and groves for firewood, materials for houses and edifices, abundant and good water for drinking and irrigation, Indians and natives to

whom the Holy Gospel may be preached, as the first motive of our intention; and finding that these, or the more important of these, conditions concur, they shall proceed to make the settlement, observing the laws of this book.

Law II. That the lands which are to be settled shall have good entrances and exits by land and sea.

The same, ordinance 37.

The lands which are to be settled shall have good entrances by sea and land, by good roads and navigation, in order that they may be easily entered and left, traded with, governed, able to give aid, and be defended.

Law III. For farm hands and laborers Indians who go voluntarily may be taken.

Ordinance 50.

For farm hands and laborers Indians who go voluntarily may be employed, provided they be not of those already settled and have house and land, because they should not leave and abandon them; nor shall they be Indians of an assignment, because of the damage which might be done to the *encomendero*,* unless he should give consent that those in excess might go because of there being no work for them to do.

Law IV. That the necessary officers shall go as public salaried officers.

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*Note by the translator: *Encomendero*, "in the legislation of the Indies one who by royal grant had Indians placed in his charge to teach them the doctrine and precepts and to defend their persons and property, on account of which they (the *encomenderos*) enjoyed large incomes."—ESCRICHE.

We order, That the officers for the offices necessary for the community shall go to the new settlements as public salaried officers. Ordinance 48.

Law V. That the bachelor residents be persuaded to marry.

Some *encomenderos* of Indians have not entered into the state of matrimony, and others have their wives and children in other provinces, or in these kingdoms. And because it is very proper that all should live in an exemplary manner and that the settlements should increase, we direct that he who is in charge shall advise and persuade the bachelors to marry if their age and condition permit; and in the assignment of Indians, they being equal in merit, they shall be preferred; with regard to discoverers, pacificators, and settlers, law 5, title 6 of this book shall be observed; and with those who may have their wives in these kingdoms, that which is provided by law 28, title 9, book 6. The Emperor Don Carlos and the Empress G. in Valladolid on August 23, 1558. See law 36, title 9, book 6.

Law VI. That the contract for a town (*villa*) of *alcaldes ordinarios* and *regidores* shall be made in conformity with this law.

If the situation of the land should be suitable for the settlement of any Spanish town, (*villa*) with council of alcaldes ordinarios and regidores (councilmen), and there should be any person to take a contract for its settlement, the contract shall be made under these conditions. That within the term designated he shall have at least thirty residents, and each one of them shall have a house, ten Don Felipe II, ordinance 38 and 39.

brood cows, four oxen, or two oxen and two yearlings, one brood sow, twenty Spanish brood ewes, and six hens and a cock; he shall also appoint a priest who for the first time shall be of his own selection, and thereafter it shall be in conformity with our royal patronage; and he shall provide the church with the ornaments and things necessary for the Divine cult, and he shall give security that he will fulfil (his contract) within the said term, and if he does not he shall lose that which he may have built, cultivated, and harvested, which we apply to our royal patrimony, and he will also incur the penalty of one thousand dollars of gold, for our chamber; and if he fulfils his obligation there shall be given to him four leagues of area and territory in a square, or oblong, according to the situation of the land, in such shape that if surveyed there shall be four square leagues, with the condition that the limits of the said territory shall be distant at least five leagues from any Spanish city, town, or place settled previously, and which will not be to the prejudice of any Indian pueblo, or private person.

Law VII. There being a contract for a greater or less number of residents, it shall be made with the area and territory in proportion, and with the same conditions.

The same, ordinance 100.

If there should be any one desirous of obligating himself to make a settlement in the manner set forth, of more or less than thirty settlers, with the provision that there

be not less than ten, he shall be given the area and territory in proportion and under the same conditions.

Law VIII. That the children and relatives of the settlers shall be held to be residents as ordered.

We hold the son or daughter of the new settler, and his relatives of any degree, even beyond the fourth, to be residents, they having their houses and families separate and apart, and being married. Don Felipe II, ordinance 92.

Law IX. That the principal settler shall make a contract with each private person who may register himself as a settler.

In the contracts of new settlement which the Government, or whomsoever may have the power to so in the Indies, may make with a city, *adelantado*, *alcalde mayor*, or *corregidor*, he who makes the contract shall also make one with each one of the private persons who may register themselves as settlers, and shall bind himself to give in the town designated lots for the building of houses, lands for pastures and cultivation in the number of *peonías* and *caballerías* proportionate to that which each one of the settlers shall obligate himself to build; nor shall he give to any one more than five *peonías* nor more than three *caballerías*, according to the distinction, difference, and measurements set forth in the laws in the title relating to the partition of lands, lots, and waters. Ordinance 103.

Law X. There being no principal settler, but married residents only, they may be per-

mitted to settle, provided they be not less than ten.

Ordinance 101. When a number of private persons agree to make a new settlement, and there be a sufficient number of married men, they may be given license, provided there be not less than ten married men, and they may be given area and territory in the proportion which has been prescribed, and we grant power to them to elect from among themselves alcaldes ordinarios and annual officers of the council.

Law XI. That he who makes the settlement shall have the jurisdiction which by this law is granted to him.

Ordinance 95. He who contracts for a new settlement of a city, town, or colony shall have the jurisdiction civil and criminal in first instance during the days of his life and that of a son or heir; and he may appoint alcaldes ordinarios, councilmen, and other officers of the council of the said town; and on appeal the causes may go before the alcalde mayor, or the supreme court of the district in which the settlement may be situate, and if it should be deemed proper to contract in another form, this shall be held and observed.

That in the district of Potosí settlements of Indians shall be established for the service of the mines; law 17, title 5, book 6; and in quicksilver mines Indians shall be settled. Law 21, *ibid.*

That the Indians shall be brought into settlements. Law 1, title 3, book 6.

That the settlements shall be made under the prescriptions of law 8, title 3, book 6.

Appendix No. 2.

BOOK FOUR—TITLE SEVEN—OF THE SETTLEMENT OF CITIES, TOWNS, AND VILLAGES.

Law 1. That the new settlements shall be established under the conditions of this law.

The discovery by sea or land having been made in accordance with the laws and orders relating to the same, and the province and district to be settled having been selected, and the sites of the places where the new settlements are to be made, and contract having been made in the matter, those who are to fulfil the same shall observe the following form: On the coast of the sea the site shall be high, salubrious, capable of defence, with consideration as to the shelter, depth, and capacity for defence of the port, and if it should be possible, not to have the sea either on the south or west; and for these, and the other settlements inland, they should select the site from those which may be vacant, and which by our provisions may be occupied without prejudice to the Indians and natives, or with their free consent; and when they make the plat of the place they shall lay off its squares, streets, and lots with line and measure, beginning at the principal square, and running thence the streets to the principal gates and roads, leaving sufficient open space so that even if the settlement

The Emperor Don Carlos, ordinance 11 of 1523.

Don Felipe II, ordinance of settlements 39 and 40.

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should increase greatly it might continue and extend in the same form. They shall endeavour to have the water near by, so that it may be carried to the town and the fields, directing its course, if possible, in order to be better able to make use of it, and the materials necessary for buildings, agricultural lands, cultivation, and pasturage, by which they will avoid the great labor and expense which are caused by distance. They shall not select sites for settlements on very high places, because of the annoyance of the winds and the difficulty of service and transportation, nor in very low places because they are generally sickly; they shall be located in places moderately high, open to the north and south winds; and if there should be mountain ranges or peaks, they should be left on the east or west side; and if the high places can not be avoided they shall locate in places where they will not be subject to fogs, with due regard to all that conduces to health, and to the casualties which may occur; and in case of settlement on the bank of a river they shall locate the settlement in such manner that the rising sun shall strike the town before it strikes the river.

Law II. The site having been selected, the governor shall decide whether it is to be a city, town, or village, and shall organize the community in conformity therewith.

Don Felipe II, ordinance 43.

The land, province, and place in which a new settlement is to be made having been selected, and the convenience and the advan-

tages that may exist having been ascertained, the governor in whose district it may be or upon which it may border shall decide whether the settlement which is to be founded shall be a city, town, or village, and in conformity with that which he may determine the council, community, and officials thereof shall be organized in such manner that if it is to be a metropolitan city it shall have a judge with the title of governor (*adelantado*), or chief alcalde (*alcalde mayor*), or mayor (*corregidor*), or ordinary alcalde (*alcalde ordinario*), who shall exercise the jurisdiction *in solidum*, and in connection with the councilmen he shall have the administration of municipal affairs; two or three officers of the royal exchequer, twelve councilmen, two inspectors of weights, two *jurados* from each parish, a general attorney, a steward (*mayordomo*), a notary for the council, two notaries public, one of mines and records, a public crier, a merchandize broker, and two doorkeepers; and if it is to be a diocesan or suffragan city, eight councilmen, and the other permanent officers; for towns and villages an *alcalde ordinario*, four councilmen, a notary for the council, who shall also be a notary public and a steward.

Law III. That the land and its surroundings be extensive and salubrious.

Ordinance 111.

We order, That the land which is to be settled, and the surrounding country, be as far as possible selected from the most fertile, abounding in pastures, firewood, timber,

materials, native population, approaches, entrance and exit, and that there be no lakes or marshes in which venomous reptiles are produced near by, nor any corruption of the air or waters.

Law IV. That ports which are not good and which are not necessary for commerce and defence shall not be settled.

Ordinance 47. Sites for open towns shall not be selected on the seashore on account of the danger to which they are exposed from pirates, and because of their not being salubrious, and because the people will not be disposed to work and cultivate the soil, nor are good habits and manners formed there; unless it be where there are good and principal ports, and of these only those which may be necessary for entrance, commerce, and defence shall be settled.

Law V. That endeavour be made to make the location near the rivers, and on them the workshops which cause filth.

Ordinance 122 and 123. It will be of great advantage to locate the settlements near the navigable rivers in order that they may have better transportation and commerce, as in maritime settlements. We order that they be so located if the site permits, and that endeavour be made to locate on the river or sea the lots for the slaughterhouses, fish dealers, tanneries, and other establishments which cause filth and bad smells, in order that the towns may be kept in a better condition of health and cleanliness.

Law VI. That the territory shall not be taken at a seaport nor at any place where it may be of prejudice.

Land and term for a new settlement shall not be granted or taken under contract in seaports, nor at any place where at any time damage may result to our Royal Crown or the community, because it is our will that they be reserved for us. Ordinance 92.

Law VII. That the territory shall be divided between him who makes the contract and the settlers, as is ordered.

That the term and territory which is to be given to the settler under contract, shall be divided in the manner following: First, there shall be taken that which may be necessary for the house lots and sufficient commons and pasture land to abundantly supply the stock of the residents, and also an equal quantity for the corporation lands of the place; the remainder of the land shall be divided into four parts; one of these, which he may select, shall be for him who is obligated to establish the settlement, and the other three shall be partitioned in equal portions among the settlers. Don Felipe II, ordinance 90.

Law VIII. That the principal church shall be erected on the site and in the manner ordered, and other churches and monasteries.

In inland places the church should not be erected in the town but at some distance from it, where it shall be separate from any other Ordinance 118.

edifice which is not for its use or ornament, and in order that it may be seen from all sides and better venerated it should be somewhat elevated above the ground in such manner as to have to be entered by steps, and between the principal square and the church the royal building, *cabildo* or council, custom-house, and the arsenal, at such a distance as to enhance the appearance of the church and not to detract from it, and in case of necessity to be able to aid one another; and if the settlement be on the coast, it should be situated in such manner as to be seen from the sea, and its edifice serve as a defence of the port, laying off lots near to it but not adjoining, on which royal buildings may be erected, and shops in the town for the corporation, imposing a moderate tax on the merchandize; and also sites in other smaller squares for parochial churches and monasteries.

Law IX. That the site, size, and arrangement of the town shall be as ordered.

Ordinance 113, 114, and 115.

The principal square at which the town shall be begun, it being on the seacoast, shall be at the landing place of the port, and if in an inland town, in the centre of the town; in form an elongated square the length of which shall be at least once and a half that of the width, because it will be better adapted to sports on horseback and others; in size proportionate to the population, and considering that the settlements may increase it should not be less than two hundred feet in width and three hundred in length, nor larger than eight hundred feet in length and

five hundred and thirty-two in width, and it would be in reasonable and good proportion if it were six hundred feet long and four hundred wide; four principal streets shall lead from the square, one from the center of each side, and in addition to these, two at each corner; the four corners shall face the four cardinal points, because the streets running in this way from the square will not be exposed to the four winds which would cause great inconvenience, and the sides and the four principal streets leading from it shall be provided with *portales* (roofs covering the sidewalks) for the convenience of the persons who are accustomed to assemble there; and the eight streets which go from the corners shall be open, without *portales*, in such manner that their sidewalks shall be on a line with the square and the streets.

Law X. Form of the streets.

In cold places the streets shall be wide, and in hot places narrow, and where there is cavalry, it will be advantageous that they be wide, for defence in times of danger, and they should be made wider in the form described above, care being taken to avoid any obstacle which might cause the disfigurement of the parts to be rebuilt, and prejudice its defensibility and convenience. Ordinance 116 and 117.

Law XI. That the house lots be partitioned by lot.

The house lots shall be partitioned by lot, beginning with those on the principal square, Ordinance 127.

and the remainder shall remain for us to make grants of them to new settlers, or to do with them as we will. And we order that the plat of the place which is to be established be always made beforehand.

Law XII. That houses shall not be built within three hundred paces of the walls.

Don Felipe III, in Madrid, on March 6, 1608.

We order, that near the walls or stockades of the new settlements, within a distance of three hundred paces, no houses shall be built; this is for the good of our service, the security and defence of the settlements, as is provided

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in castles and fortresses.

Law XIII. That sufficient commons be laid off for the town.

Don Felipe II, ordinance of settlements 129.

The commons shall be at such a distance that if the settlement should increase there will always remain sufficient space for the recreation of the people and for the stock to go out without doing damage.

Law XIV. That pasture and other lands be designated for town lands (*propios*).

The Emperor, Don Carlos, year 1523.

There having been marked off a sufficient area of land for commons for the settlement and its increase, in conformity with that which has been prescribed, those empowered to make the selection and new settlement

Don Felipe II, ordinance of settlements 130.

will proceed to lay off pasture lands, for the pasturage of the work oxen, horses, and stock of the butchers, and the regular number of stock which the settlers are required to have according to the ordinance, and a

good quantity besides, which shall be the lands of the council (*propios*), and the remainder shall be laid off in lots in number equal to the house lots in the town, and if there be any irrigable lands they shall also be laid off in lots, and they shall be partitioned in like proportion among the first settlers, and the rest shall remain vacant in order that we may make grants of them to those who may desire to make a new settlement thereon; and of these lands the viceroys shall cause to be segregated such as they may deem suitable for town lands (*propios*) of such towns as may have none, the revenues of which they may apply to aid in the payment of the salaries of the councilmen, leaving the commons, pastures, and sufficient pasturage, as prescribed, and thus they shall do.

Law XV. That having planted, the settlers shall begin to build.

Don Felipe II, ordinance of settlements 132.

So soon as the planting is done and the stock placed in such number and good condition that with the grace of God our Lord an abundance of supplies may be expected, they will begin with great care and diligence to found and build their houses with good foundations and walls, and they shall go provided with good moulds, boards, and all other tools and implements needed to build quickly and at small cost.

Law XVI. That the plat having been made each one shall set up his tent on his lot and a stockade shall be made around the town.

Ordinance 128. The plat and the partition of the lots having been made each one of the settlers shall endeavour to set up his tent, and the captains shall persuade them to take them with the other necessaries, or they may build huts with logs and branches in which they may take shelter, and all with the greatest diligence and activity shall make stockades and trenches around the town in order that they may not be hurt by the Indians.

Law XVII. That the houses shall be arranged in conformity with this law.

Ordinances, 133 and 134. The settlers will see that the lots, edifices, and houses be of one form for the adornment of the settlement, and that they may enjoy the north and south winds, joining the one to the other in order that they may serve as a defence and guard against those who might wish to oppose it, and they should endeavour to arrange to keep in all the houses their horses and work animals, with courtyards and pens, and with the greatest extension possible in order to enjoy health and cleanliness.

Law XVIII. Which declares what persons shall go as settlers of a new colony and how they shall describe themselves.

Ordinance 45. We order that when a colony is taken from any city it shall be the duty of the magistrate and the corporation council to cause to be described before the notary of the council the persons who may desire to go to make the new settlement, admitting all married men, sons, and descendants of settlers of the place whence they are to out who have no

house lots nor pastures and cultivable lands, and excluding such as have them, in order not to depopulate that which is already settled.

Law XIX. That from among the settlers there be elected a magistrate and council, and that their capital be recorded.

The number of those who are to go to settle being complete, there shall be elected from among the most intelligent a magistrate and council, and each one shall register the capital he has to invest in the new settlement. Don Felipe II, ordinance 46.

Law XX. That the fulfilment of the contracts made for settlements be exacted.

A contract having been made under the authority of a colony, a governor, an alcalde mayor, a mayor, a town, or village, the council, and those who made the same in the Indies, shall not be satisfied with having accepted and made the contract, but shall continue to control it and direct how it shall be carried into effect, and shall keep a record of all that is being done. Ordinance 102.

Law XXI. That the governor and magistrate enforce the fulfilment of the contracts of the settlers.

We direct that the governor and the magistrate of the town newly settled, ex officio, or on petition of a party, shall require the fulfilment of the contracts with due diligence and care by all of those who may be bound to make new settlements, and the council and the corporation attorneys shall Ordinance, 103.

appear by petition against such settlers as have not fulfilled their contracts within the term agreed upon, in order that they be compelled, with all rigor of law, to carry out that which was stipulated, and that the judges shall proceed against those who may be absent, and that they be arrested and brought to the settlements, and that requisition be made for those who may be in other jurisdictions, and all judges shall grant them under penalty of our displeasure.

Law XXII. Which says what persons shall attend to the building of the settlement.

Ordinance 135. The inspectors of weights and the master masons and such other persons as the governor may depute shall have the supervision of that which is ordered to be done, and they shall see that all are active in cultivating and building, in order that the settlement may be quickly finished.

Law XXIII. That if the natives oppose the settlement they be persuaded to keep the peace and the settlement be continued.

Ordinance 136. If the natives should desire to oppose the new settlement they shall be made to understand that the object of settling there is to teach them to know God and His holy law, through which they may be saved, and to be friendly with them and to teach them to live properly, and not to do them any harm, nor to take from them their estates, and so they shall be persuaded by gentle means, with the intervention of monks, priests, and such

other persons as the governor may depute, employing interpreters and endeavoring by all means possible to make the settlement peaceably and with their consent; and if they should still refuse their consent, after having required it of them in conformity with law 9, title 4, book 3, the settlers will make their settlement without taking anything which may belong to the Indians, and without causing them any more damage than that which is unavoidable for the safety of the settlers and does not prevent the settlement.

Law XXIV. That during the progress of the work there shall be no communication with the natives.

Ordinance 137.

Until the new settlement is finished the settlers will endeavour as far as possible to avoid communication and intercourse with the Indians; they shall not go to their towns, nor separate and amuse themselves by wandering over the country, nor shall they permit the Indians to enter the limits of the settlement until it is finished and placed in condition of defence and the houses in such shape that when the Indians see them it may cause admiration and they may understand that the Spaniards have settled there with the intention to remain, and that they may fear and respect them, so that they will desire their friendship and will not offend them.

Law XXV. That if the settlement be not finished within the term because of a fortuitous circumstance it may be extended.

Ordinance 93. If by a fortuitous circumstance the settlers may not have finished the settlement within the term expressed in the contract, they shall not have lost and shall not lose that which they may have expended or built, nor shall they incur the penalty, and he who governs the land may extend it, in accordance with the circumstances.

Law XXVI. That the settlers shall plant at once, and shall put their stock in the pastures where they will do no damage to the Indians.

Ordinance 136. So soon as the lands are partitioned and without delay, the settlers shall plant all the seed which they may have and might have, and of which they ought to carry a goodly quantity; and for greater security the governor shall appoint a man who shall devote himself to cultivating and planting the land with grain and vegetables in order that assistance may be rendered; and in the pasture put all the stock which they may take with them, together with that which they may be able to gather, with their marks and brands, in order that they may begin to increase and multiply, in places where they will be safe and do no damage to the fields and plantations, or other things belonging to the Indians.

That the hospitals be founded in conformity with law 2, title 4, book 1.

No. 2.

BOOK FOUR.—TITLE SEVEN.—OF THE SETTLEMENT OF CITIES, TOWNS, AND VILLAGES.

Law 1. That the new settlements shall be established under the conditions of this law.

The discovery by sea or land having been made in accordance with the laws and orders relating to the same, and the province and district to be settled having been selected, and the sites of the places where the new settlements are to be made, and contract having been made in the matter, those who are to fulfill the same shall observe the following form: On the coast of the sea the site shall be high, salubrious, capable of defense, with consideration as to the shelter, depth, and capacity for defense of the port, and if it should be possible, not to have the sea either on the south or west; and for these, and the other settlements inland, they should select the site from those which may be vacant, and which by our provisions may be occupied without prejudice to the Indians and natives, or with their free consent; and when they make the plat of the place they shall lay off its squares, streets, and lots with line and measure, beginning at the principal square and running thence the streets to the principal gates and roads, leaving sufficient open space so that even if the set-

The Emperor, Don Carlos, ordinance 11 of 1523.

Don Felipe II, ordinance of settlements 39 and 40.

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tlement should increase greatly it might continue and extend in the same form. They shall endeavor to have the water near by so that it may be carried to the town and the fields, directing its course if possible, in order to be better able to make use of it, and the materials necessary for buildings, agricultural lands, cultivation, and pasturage, by which they will avoid the great labor and expense which are caused by distance. They shall not select sites for settlements on very high places because of the annoyance of the winds and the difficulty of service and transportation, nor in very low places because they are generally sickly; they shall be located in places moderately high, open to the north and south winds; and if there should be mountain ranges or peaks, they should be left on the east or west side; and if the high places can not be avoided they shall locate in places where they will not be subject to fogs, with due regard to all that conduces to health, and to the casualties which may occur; and in case of settlement on the bank of a river they shall locate the settlement in such manner that the rising sun shall strike the town before it strikes the river.

Law II. The site having been selected, the governor shall decide whether it is to be a city, town, or village, and shall organize the community in conformity therewith.

Don Felipe II, ordinance 43.

The land, province, and place in which a new settlement is to be made having been selected, and the convenience and the advan-

tages that may exist having been ascertained, the governor in whose district it may be or upon which it may border shall decide whether the settlement which is to be founded shall be a city, town, or village, and in conformity with that which he may determine, the council, community, and officials thereof shall be organized in such manner that if it is to be a metropolitan city it shall have a judge with the title of governor (*adelantado*) or chief alcalde (*alcalde mayor*) or mayor (*corregidor*) or ordinary alcalde (*alcalde ordinario*), who shall exercise the jurisdiction *in solidum*, and in connection with the councilmen he shall have the administration of municipal affairs; two or three officers of the royal exchequer, twelve councilmen, two inspectors of weights, two *jurados* from each parish, a general attorney, a steward (*mayordomo*), a notary for the council, two notaries public, one of mines and records, a public crier, a merchandise broker, and two doorkeepers; and if it is to be a diocesan or suffragan city, eight councilmen, and the other permanent officers; for towns and villages an *alcalde ordinario*, four councilmen, a notary for the council, who shall also be a notary public, and a steward.

Law III. That the land and its surroundings be extensive and salubrious.

Ordinance 111.

We order that the land which is to be settled and the surrounding country be as far as possible selected from the most fertile; abounding in pastures, firewood, timber,

materials, native population, approaches, entrance and exit, and that there be no lakes or marshes in which venomous reptiles are produced near by, nor any corruption of the air or waters.

Law IV. That ports which are not good and which are not necessary for commerce and defense shall not be settled.

Ordinance 47. Sites for open towns shall not be selected on the seashore—on account of the danger to which they are exposed from pirates, and because of their not being salubrious, and because the people will not be disposed to work and cultivate the soil, nor are good habits and manners formed there—unless it be where there are good and principal ports, and of these only those which may be necessary for entrance, commerce, and defense shall be settled.

Law V. That endeavour be made to make the location near the rivers, and on them the workshops which cause filth.

Ordinance 122 and 123. It will be of great advantage to locate the settlements near the navigable rivers in order that they may have better transportation and commerce, as in maritime settlements. We order that they may be so located, if the site permits, and that endeavour be made to locate on the river or sea the lots for the slaughterhouses, fish dealers, tanneries, and other establishments which cause filth and bad smells, in order that the towns may be kept in a better condition of health and cleanliness.

Law VI. That the territory shall not be taken at a seaport nor at any place where it may be of prejudice.

Land and term for a new settlement shall not be granted or taken under contract in seaports nor at any place where at any time damage may result to our royal crown or to the community, because it is our will that they be reserved for us. Ordinance 92.

Law VII. That the territory shall be divided between him who makes the contract and the settlers, as is ordered.

That the term and territory which is to be given to the settler under contract shall be divided in the manner following: First, there shall be taken that which may be necessary for the house lots and sufficient commons and pasture land to abundantly supply the stock of the residents, and also an equal quantity for the corporation lands of the place; the remainder of the land shall be divided into four parts; one these which he may select shall be for him who is obligated to establish the settlement, and the other three shall be partitioned in equal portions among the settlers. Don Felipe II, ordinance 90.

Law VIII. That the principal church shall be erected on the sight and in the manner ordered, and other churches and monasteries.

In inland places the church should not be erected in the town, but at some distance from it, where it shall be separate from any Ordinance 118.

other edifice which is not for its use or ornament, and in order that it may be seen from all sides and better venerated it should be somewhat elevated above the ground in such manner as to have to be entered by steps, and between the principal square and the church the royal buildings, *cabildo* or council, custom-house, and the arsenal, at such a distance as to enhance the appearance of the church and not to detract from it, and in case of necessity to be able to aid one another, and if the settlement be on the coast it should be situated in such manner as to be seen from the sea and its edifice serve as a defence of the port, laying off lots near to it but not adjoining, on which royal buildings may be erected, and shops in the town for the corporation, imposing a moderate tax on the merchandise; and also sites in other smaller squares for parochial churches and monasteries.

Law IX. That the site, size, and arrrangement of the town shall be as ordered.

Ordinance 113, 114, and 115.

The principal square, at which the town shall be begun, it being on the seacoast, shall be at the landing place of the port, and if in an inland town, in the centre of the town; in form an elongated square, the length of which shall be at least once and a half that of the width, because it will be better adapted to sports on horseback and others; in size proportionate to the population, and considering that the settlements may increase it should not be less than two

hundred feet in width and three hundred in length, nor larger than eight hundred feet in length and five hundred and thirty-two in width, and it would be in reasonable and good proportion if it were six hundred feet long and four hundred wide; four principal streets shall lead from the square, one from the centre of each side, and in addition to these, two at each corner; the four corners shall face the four cardinal points, because the streets running in this way from the square will not be exposed to the four winds which would cause great inconvenience, and the sides and the four principal streets leading from it shall be provided with *portales* (roofs covering the sidewalks) for the convenience of the persons who are accustomed to assemble there; and the eight streets which go from the corners shall be open, without *portales* in such manner that their sidewalks shall be on a line with the square and the streets.

Law X. Form of the streets.

Ordinance 116 and 117.

In cold places the streets shall be wide, and in hot places narrow, and where there is cavalry it will be advantageous that they be wide, for defence in times of danger, and they should be made wider in the form described above, care being taken to avoid any obstacle which might cause the disfigurement of the parts to be rebuilt, and prejudice its defensibility and convenience.

Law XI. That the house lots be partitioned by lot.

Ordinance 127. The house lots shall be partitioned by lot, beginning with those on the principal square, and the remainder shall remain for us to make grants of them to new settlers, or to do with them as we will. And we order that the plat of the place which is to be established be always made beforehand.

Law XII. That houses shall not be built within three hundred paces of the walls.

Don Felipe III, in Madrid, on March 6, 1608. We order, that near the walls or stockades of the new settlements, within a distance of three hundred paces, no houses shall be built. This is for the good of our service,

Don Carlos II and the R. G. the security and defence of the settlements, as is provided in castles and fortresses.

Law XIII. That sufficient commons be laid off for the town.

Don Felipe II, ordinance of settlements 129. The commons shall be at such a distance that if the settlement should increase there will always remain sufficient space for the recreation of the people and for the stock to go out without doing damage.

Law XIV. That pasture and other lands be designated for town lands (*propios*).

The Emperor, Don Carlos, year 1523. There having been marked off a sufficient area of land for commons for the settlement and its increase, in conformity with that which has been prescribed, those empowered to make the selection and new settlement

Don Felipe II, ordinance of settlements 130. will proceed to lay off pasture lands for the pasturage of the work oxen, horses, and

stock of the butchers, and the regular number of stock which the settlers are required to have according to the ordinance, and a good quantity besides, which shall be the lands of the council (*propios*), and the remainder shall be laid off in lots in number equal to the house lots in the town, and if there be any irrigable lands they shall also be laid off in lots and they shall be partitioned in like proportion among the first settlers, and the rest shall remain vacant in order that we may make grants of them to those who may desire to make a new settlement thereon; and of these lands the viceroys shall cause to be segregated such as they may deem suitable for town lands (*propios*) of such towns as may have none, the revenues of which they may apply to aid in the payment of the salaries of the councilmen, leaving the commons, pastures, and sufficient pasturage as prescribed, and thus they shall do.

Law XV. That having planted the settlers shall begin to build.

Don Felipe II, ordinance of settlements 132.

So soon as the planting is done and the stock placed in such number and good condition that with the grace of God our Lord an abundance of supplies may be expected, they will begin with great care and diligence to found and build their houses with good foundations and walls, and they shall go provided with good moulds, boards, and all other tools and implements needed to build quickly and at small cost.

Law XVI. That the plat having been made each one shall set up his tent on his lot and a stockade shall be made around the town.

Ordinance 128. The plat and the partition of the lots having been made each one of the settlers shall endeavour to set up his tent, and the captains shall persuade them to take them with the other necessaries, or they may build huts with logs and branches in which they may take shelter, and all with the greatest diligence and activity shall make stockades and trenches around the town in order that they may not be hurt by the Indians.

Law XVII. That the houses shall be arranged in conformity with this law.

Ordinance. 133 and 134. The settlers will see that the lots, edifices, and houses be of one form for the adornment of the settlement, and that they may enjoy the north and south winds, joining the one to the other in order that they may serve as a defense and guard against those who might wish to oppose it, and they should endeavor to arrange to keep in all the houses their horses and work animals, with courtyards and pens, and with the greatest extension possible, in order to enjoy health and cleanliness.

Law XVIII. Which declares what persons shall go as settlers of a new colony and how they shall describe themselves.

Ordinance 45. We order that when a colony is taken from any city it shall be the duty of the magistrate and the corporation council to

cause to be described before the notary of the council the persons who may desire to go to make the new settlement, admitting all married men, sons and descendants of settlers of the place whence they are to out, who have no house, lots, nor pastures and cultivable lands, and excluding such as have them, in order not to depopulate that which is already settled.

Law XIX. That from among the settlers there be elected a magistrate and council, and that their capital be recorded.

The number of those who are to go to settle being complete, there shall be elected from among the most intelligent a magistrate and council, and each one shall register the capital he has to invest in the new settlement. Don Felipe II, ordinance 46.

Law XX. That the fulfillment of the contracts made for settlements be exacted.

A contract having been made under the authority of a colony, a governor, an alcalde mayor, a mayor, a town or village, the council, and those who made the same in the Indies shall not be satisfied with having accepted and made the contract, but shall continue to control it and direct how it shall be carried into effect, and shall keep a record of all that is being done. Ordinance 102.

Law XXI. That the governor and magistrate enforce the fulfillment of the contracts of the settlers.

We direct that the governor and the magistrate of the town newly settled, ex officio Ordinance 103.

or on petition of a party, shall require the fulfillment of the contracts with due diligence and care by all of those who may be bound to make new settlements; and the council and the corporation attorneys shall appear by petition against such settlers as have not fulfilled their contracts within the term agreed upon, in order that they be compelled with all rigor of law to carry out that which was stipulated; and that the judges shall proceed against those who may be absent, and that they be arrested and brought to the settlements, and that requisition be made for those who may be in other jurisdictions; and all judges shall grant them under penalty of our displeasure.

Law XXII. Which says what persons shall attend to the building of the settlement.

Ordinance 135. The inspectors of weights and the master masons and such other persons as the governor may depute shall have the supervision of that which is ordered to be done, and they shall see that all are active in cultivating and building, in order that the settlement may be quickly finished.

Law XXIII. That if the natives oppose the settlement they be persuaded to keep the peace, and the settlement be continued.

Ordinance 136. If the natives should desire to oppose the new settlement they shall be made to understand that the object of settling there is to teach them to know God and His Holy Law through which they may be saved, and to be friendly with them, and to teach them to live

properly, and not to do them any harm, nor to take from them their estates, and so they shall be persuaded by gentle means, with the intervention of monks, priests, and such other persons as the governor may depute, employing interpreters and endeavoring by all means possible to make the settlement peaceably and with their consent; and if they should still refuse their consent, after having required it of them in conformity with law 9, title 4, book 3, the settlers will make their settlement without taking anything which may belong to the Indians, and without causing them any more damage than that which is unavoidable for the safety of the settlers and does not prevent the settlement.

Law XXIV. That during the progress of the work there shall be no communication with the natives.

Ordinance 137.

Until the new settlement is finished the settlers will endeavor as far as possible to avoid communication and intercourse with the Indians; they shall not go to their towns, nor separate and amuse themselves by wandering over the country, nor shall they permit the Indians to enter the limits of the settlement until it is finished, and placed in condition of defense and the houses in such shape that when the Indians see them it may cause admiration and they may understand that the Spaniards have settled there with the intention to remain, and that they may fear and respect them so that they will desire their friendship and will not offend them.

Law XXV. That if the settlement be not finished within the term because of a fortuitous circumstance it may be extended.

Ordinance 93. If by a fortuitous circumstance the settlers may not have finished the settlement within the term expressed in the contract, they shall not have lost and shall not lose that which they may have expended or built, nor shall they incur the penalty, and he who governs the land may extend it, in accordance with the circumstances.

Law XXVI. That the settlers shall plant at once, and shall put their stock in the pastures where they will do no damage to the Indians.

Ordinance 136. So soon as the lands are partitioned and without delay, the settlers shall plant all the seed which they may have and might have, and of which they ought to carry a goodly quantity; and for greater security the governor shall appoint a man who shall devote himself to cultivating and planting the land with grain and vegetables, in order that assistance may be rendered; and in the pasture put all the stock which they may take with them, together with that which they may be able to gather, with their marks and brands, in order that they may begin to increase and multiply, in places where they will be safe and do no damage to the fields and plantations, or other things belonging to the Indians.

That the hospitals be founded in conformity with law 2, title 4, book 1.

Appendix No. 3.

ARCHIVE No. 1171. UNITED STATES SURVEYOR-GENERAL'S OFFICE.

The twenty-fifth section of the instruction in connection with the royal regulation concerning garrisons, of the 10th of September, 1772, which was issued to be promulgated on the line of the frontier, provided that an attempt should be made to reestablish the ruined towns of Senecu, Socorro, Alamillo, and Cevilleta, situated upon the main road that goes up from El Paso to Santa Fe, for the purpose of shortening the distance that is uninhabited, and which renders difficult the travel and communication from that province to this, as well as to the said town of El Paso.

Bearing in mind the sovereign provision, the fulfillment of which has been delayed by Indian hostilities, the multifarious duties devolving upon the troops, and the difficulty of getting from other small towns the citizens that were needed for the establishment of the towns ordered to be resettled, taking advantage of the favorable occasion offered by the decreased number of savages, the greater part of them being at peace, the occupations in which the troops were indispensably employed having diminished at the same time that the population and property of that province has increased, I have determined that you shall immediately proceed to direct the resettlement of the town of Socorro, issuing the proper proclamation for that purpose, in order that from the inhabitants of all classes and races that may be without property, lands, and fixed domicile, with the exception of the mission Indians, a sufficient number may go to establish themselves at said town of Socorro.

After having laid out thereat sufficient lands for the church and the priest's house, lots will be given to the citizens who may gather there, in order that they erect their own houses in a methodical manner, laying off the streets by straight lines, and they shall partition pieces of cultivable land that they may need and can work, taking care that some extra pieces shall be left over to be granted to the colonists who may join them hereafter. Everything must be done in the manner prescribed by the instruction, of which I transmit you a copy which has been approved by His Majesty, the attorney-general of this superior government having issued it with a view to the establishment of a new settlement in the province of Sonora.

For the better protection of the citizens who may come together at the town of Socorro you will direct that it be inclosed as are other towns of that province, and you will station there fifteen or twenty soldiers under command of a reliable officer, sergeant, or corporal of well-known energy, so that he may stimulate them to the building of their houses, breaking and cultivation of the lands, the construction of ditches for irrigation—if they can not make use of the old ones by cleaning and repairing them—and, finally, that he may aid, protect, and defend them from the attacks of the savages.

This party could be composed of married men, who should take their families to Socorro and transport all their equipage, horses, trappings, armament, and ammunition, as I judge that it will be advisable that they remain there without being relieved until the inhabitants can take care of themselves, or until there is no objection to reducing their number, which you will decide as may be proper, as you are acquainted with the condition of affairs.

I understand that it will be well to construct a kind of quarters for their lodgings, the troops not on duty doing the work by details, the settlers aiding them in it, because

although the detachment may be withdrawn, they having the option of selling it and applying the proceeds to their common use and benefit.

In the said town of Socorro, which is to retain with this name that of the titular saint which it may formerly have had, you will permit the retired soldiers attached to that company, who may wish to do so voluntarily, to establish themselves as residents and under the same conditions as the others, without this being an obstacle to your continuing to include them in the review in order to secure to them their pay.

The extent of said settlement shall consist of four leagues, prescribed by section two of the instructions which I transmit to you, in order that it be observed as far as possible, with the exception that there shall be no town council nor ordinary alcaldes, in place of which you will appoint a justice who should be a person of well-known impartiality, zeal, and probity, in order that he may govern the residents as may be required.

If it should be absolutely necessary to assist some of them with a yoke of oxen, farming implements, or any other kind of help, you will do so, distributing among all those who are in need from three to four hundred dollars, drawing this amount from the gratuity fund, in case there should be no other unappropriated money there, those who may receive the aid being bound in common to pay the amount in the first two years from the products of their crops and the other fruits of their industry.

I trust that you will use the greatest activity in the prompt execution of the foregoing, and that you will contribute with your customary energy to the most orderly settlement of the said town of Socorro, duly notifying me of the results of your directions and of the number of citizens you may gather together.

You are not to permit those to go there who are settled at Sabinal, for fear of weakening the latter place, the

strengthening of which, on the contrary, should be attempted by endeavoring to obtain a somewhat greater number of inhabitants than it has at present, provided there is enough land and water to distribute among them.

Upon the same principle you should proceed in due time with the resettlement of the other ruined towns on the main road, carrying into effect the important plan prescribed by section twenty-five of the instruction in connection with the regulation, in order to protect the uninhabited route of communication lying between El Paso and that province, thus making useful and productive the two thousand superfluous inhabitants therein, who were most pernicious on account of their idleness and vices, as was set forth by Colonel Don Fernando de la Concha, your predecessor, in the eleventh article of the instruction which he left to you, date the 28th of June, 1794.

When you go to the town of El Paso, in June or July of this year, to direct the construction of the bridge which is to be made over the Rio Grande, or to repair the one now in existence, you should examine the place or places that may be within a distance of from twelve to twenty or twenty-five leagues of sufficient size to establish a settlement on the road leading to that province and capable of supporting a considerable number of citizens who may be taken from the jurisdiction of El Paso, and you will report to me at length your opinion and anything that may occur to you, not only on this point, but in relation to the assistance that may be properly extended to them for their profitable permanent settlement, with the understanding that, consulting their better protection and defense, I shall furnish troops from the garrison of San Elizario in such number as you may indicate as necessary.

God preserve you many years.

PEDRO DE NAVA. [SCROLL.]

CHIHUAHUA, *January 18, 1800.*

P. S.—Notwithstanding the foregoing provisions you may permit some of the residents of other towns, who may wish to do so voluntarily, to go to settle at the town of Socorro, taking their property with them, but it should always be borne in mind that the old towns are not to be weakened on that account. With respect to the town of Sabinal this is prohibited for the present, on account of the number of inhabitants being small.

NAVA. [SCROLL.]

To the GOVERNOR OF NEW MEXICO.

165-675

Office Supreme Court, U. S.
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CLERK.

165-675

Supreme Court of the United States.

OCTOBER TERM, 1895.

No. ~~507.~~ 208.

CITY OF SANTA FÉ

vs.

THE UNITED STATES OF AMERICA AND EIGHTEEN OTHERS.

SANTA FE GRANT.

T. B. Catron,
Wm. H. Pope,
Attorneys for Appellee.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1895.

No. 504.

CITY OF SANTA FÉ

vs.

THE UNITED STATES OF AMERICA AND EIGHTEEN OTHERS.

SANTA FE GRANT.

STATEMENT.

This cause was commenced by the city of Santa Fé, before the court of private land claims, to have confirmed to it a tract of land of four square leagues.

It is alleged and proven there was a village corporation of Santa Fé under the Spanish and Mexican governments down to the acquisition of New Mexico by the United States; that Santa Fé has since been incorporated into a city under the laws of New Mexico. It is claimed that the village of Santa Fé had the right to four square leagues of land, with the public plaza as a center, either by direct grant or by operation of law; that the grant title papers, if it was actu-

ally made by any paper grant, cannot be found, and it is suggested they may have been lost in some revolutionary period, so that the claim of plaintiff rests on the operation of the laws of Spain and Mexico, and that these laws gave such title to that village as the court is bound to respect.

A number of parties were made defendants who, it is alleged, claimed lands in the limits of the grant, and answers were put in by them setting up their claims. The court held adversely to them, and they have taken no appeal in this case. The case is here on the appeal of the United States alone, which insists upon the Court taking notice of the evidence and claims of the other defendants, who have not appealed, based on alleged Spanish and Mexican grants, thus not presuming any grant in Santa Fé.

BRIEF.

Appellant's brief contains translations of some of the laws of the Indies, which we will assume are correctly translated, and not repeat, as they are sufficient for this argument. As the court of private land claims sustained the case of appellees, and its decision is substantially correct, and the burden is upon the United States to show the inaccuracy of this decision, we will confine ourselves to the line of argument of the counsel for the Government.

The first contention of the appellant is, there was no law of Spain conferring upon cities, towns, or villages a tract of four square leagues when organized with an alcalde and town council, as Santa Fé is shown to have been by documentary and oral proofs. The contrary has been held by the court of private land claims and is not subject to review if there be any evidence to sustain it.

That there was law in Spain and Mexico to sustain the contention of the city for four square leagues, the brief of appellant furnishes sufficient evidence, although it is claimed in that brief that the four-square-league provision only ap-

plied to those cases where the town was organized under a contract, and that where it was organized by a voluntary union of individuals the amount was left to the discretion of the governor. They are laws 6 and 10, tit. 5, Book 4.

The first law might possibly have such construction if standing alone, but law 10, which provides:

"When a number of private persons agree to make a new settlement and there be a sufficient number of married men they may be given license, provided there be not less than ten married men, *and they may be given area and territory in the proportion which has been prescribed*, and we grant power to them to elect from among themselves alcaldes, ordinarios, and annual officers of the council."

This last law refers for the quantity to the first, law 6. These laws have been construed by this Court in at least three different cases.

Brownsville *vs.* Cabazos, 100 U. S., 138.
Townsend *vs.* Greeley, 5 Wall., 336.
Grisar *vs.* McDowell, 6 Wall., 363.

Also by the circuit court in the "Pueblo case," 4 Sawyer, 566, and the supreme court of California in Hart *vs.* Burnett, 15 Cala., 624; Welch *vs.* Sullivan, 8 Cala., 187, and in various other cases by that court.

In Townsend *vs.* Greeley this Court said:

"By the laws of Mexico in force at the date of the acquisition of the country, pueblos or towns were entitled, for their benefit and the benefit of their inhabitants, to the use of lands constituting the site of such pueblos and towns and of adjoining lands within certain prescribed limits. This right appears to have been common to the cities and towns of Spain from an early period of her history, and was recognized in the laws and ordinances for the settlement and government of her colonies on this continent. These laws and ordinances provided for the assignment to the pueblos or towns when once established and officially recognized, for their use and the use of their inhabitants, of four square leagues of land.

"It may be difficult to state with precision the exact nature of the right or title which the pueblos held in these lands. It was not an indefeasible estate. The ownership of the lands in the pueblos could not in strictness be affirmed. It amounted in truth to little more than a restricted and qualified right to alienate portions of the land to its inhabitants for building or cultivation and to use the remainder for commons, for pasture lands, or as a source of revenue or for other public purposes. This right of disposition and use was in all particulars subject to the control of the government of the country. * * *

"It is evident from these brief statements that these lands were not assigned to the pueblos in absolute property, but were to be held in trust for the benefit of the inhabitants."

Citing with approval the case of Hart *vs.* Burnett, 15 Cala., 530, and also the "Pueblo case," 4 Sawyer; also in Grisar *vs.* McDowell, 6 Wall., the same principle is enunciated, and the Pueblo case and the decision of the supreme court of California are there cited with approval.

In Brownsville *vs.* Cabazos this court said:

"By the law of Mexico in force at the time, pueblos and towns, when organized as such by public authority, became entitled, for their use and benefit and the use and benefit of their inhabitants, to certain lands, embracing the site of such pueblos or towns and adjoining territory to the extent of four square leagues. This right was held by the cities and towns of Spain for a long period before the conquest in America and was recognized in her laws and ordinances for the government of her colonies here."

Brownsville *vs.* Cabazos, 100 U. S., 138.
See S. C., 2 Wood, 293.
Also Montgomery *vs.* Bevans, 1 Sawyer, 674.
Trenouth *vs.* San Francisco, 100 U. S., 251.
San Francisco *vs.* Le Roy, 138 U. S., 664.
Hale *vs.* Akers, 69 California, 166.

The Pueblo case and the case of Welch *vs.* Sullivan each go fully into the history of pueblo grants and show that the property rights of pueblos were recognized at an early

period in official documents. The opinion of the assessor or legal adviser of the vice-royalty of New Spain, given to the commandant general in October, 1785, quoted in the cases just cited, is an instance in point.

The same principle is maintained in the "Pueblo case," 4 Saw., 563; also in Hart *vs.* Burnett, 15 Cala., 537 and 538, the court says:

"It appears from the history of Spanish jurisprudence that special attention was given in very early times to the establishment of cities (ciudades), towns (pueblos), and villages (villas), and that particular laws were enacted for their foundation and government. Title seven, Book four, of the Recopilation de Indies, refers especially to this subject, and contains numerous laws and provisions relating to the different classes of land belonging to such municipalities. Some of these laws will be more particularly referred to hereafter. Title five of the same book relates especially to the formation of settlements of a municipal character and their subsequent organization into municipal bodies. Law six of this title authorizes contracts to be made for the founding of towns, and prescribes the conditions to be imposed upon the contractors. Law ten authorizes the founding of towns by the voluntary union of families without contract with any *poblador particular*."

These laws constitute a part of the system of Spain for the settlement of Spanish America. They contemplate two modes of founding towns or municipal settlements: One by contract with a particular individual or *poblador*, who undertook to bring together a certain number of families or settlers and build a town; the other by the voluntary union of a certain number of families or settlers, who were to act in concert for the same object.

And on page 539 they say:

"The law of August 18, 1824, makes no new provisions for pueblos, but in section two it recognizes the fact that pueblos have a right of property in land. The Executive Regulation of November 21, 1828, section ten, provides for the formation of new pueblos of at least twelve families each by

capitulantes or contractors. No change, however, is made in the laws respecting pueblos formed in the usual way, by the union of families or settlers for that purpose or by the conversion of presidios into pueblos."

Further, at page 541, the court says:

"All the old Spanish laws relating to the foundation and government of pueblos in the Indies seem to admit the fact that such municipal organizations possess *some* right to and some control over the lands upon which they are established, and which are included within their limits. In this respect there does not seem to be any essential difference between pueblos founded by an individual poblador or capitulante and those founded by the actual settlement of a number of families voluntarily uniting together without any contract or capitulation. A pueblo when once established (no matter how or by whom composed), and officially and legally recognized as such, came immediately within the provisions of the general laws relating to pueblos, and was entitled to all the rights and privileges, whether political, municipal, or of property, which the laws conferred on such organizations or corporations. Sometimes, however, special laws and regulations were made for particular places." * * * "By law six, title five, of Book four of the Recopilacion, a new town, containing at least thirty inhabitants and the other requisites for municipal organization, was entitled to four square leagues of land, to be laid off in a square or prolonged form, as the nature or the circumstances of the land might require."

The court then refers to the Royal Instructions of 1789 for the plan of Pitic, which plan it says was made applicable to all new towns that should thereafter be established.

But the plan of Pitic was in exact conformity with the provisions of Book four, title five, and the laws thereunder, so far as it conformed to any law; but it seemed that there was some doubt of the right of the commandant general to make such regulations, and they were subsequently repealed.

There are numerous other decisions of this Court and of

the supreme courts of California and Texas sustaining this position and which come down to the present time.

It is contended by the appellant that a grant of land to the village of Santa Fé should appear otherwise than by presumption. Appellee insists that this contention is unsupported by any authority. On the contrary, every adjudicated case carries the idea that a grant is to be presumed as soon as there is shown to be an organized town. In Hart *vs.* Burnett, 15 Cala., 442, the court say:

"It does not appear that any formal grants of land were made to new pueblos in such cases, but their right or title, whatever it was, to land, to the extent of four leagues or less, as the case might be, seems to have vested, *ipso facto*, on the formation or official recognition of such towns, and that the powers of the municipal officers over such land resulted from the general law immediately on the municipal organization and their election and entry upon the duties of their respective offices." * * *

Upon the same subject the same court, on page 551 of the opinion, say:

"Considering that nearly all the old pueblo archives where such evidence would naturally be looked for were burned or lost in 1851 and the very imperfect condition of the archives to be found with the surveyor general, we are only surprised that so much evidence of these facts is still preserved. Of course, those who have sought for a special grant, with boundaries particularly designated by natural or artificial objects, have been disappointed. We think there was no good reason to look for such a grant, as none was required; nor, so far as we can learn, was it usual to issue one. Moreover, the law so expressly designates the manner in which the four leagues were to be laid off that there could have been no particular necessity of marking them out upon the ground in order to segregate the land from the public domain. If a larger tract had been assigned or granted, some act of grant ought to be shown, or if the four leagues had been located in a manner different from the usual form, we might expect to find some special designation of boundaries."

In U. S. *vs.* Pico this Court, speaking of this point, say:

"The objection of the appellants is founded upon the absence of any transfer of the title to the pueblo by deed or other writing. But such transfer was not essential nor was it usual. A pueblo once formed and officially recognized became entitled, under the laws of Mexico, to the use of certain lands for its benefit and the benefit of its inhabitants, and the lands were, upon petition, set apart and assigned to it by the government. No other evidence of such assignment is required nor is any other given."

This last decision was under the regulations established by the Republic of Mexico after its independence, but it cites, with approval, the case of Hart *vs.* Burnett.

It is further claimed by appellant that the Spanish authorities made other grants of land to private persons within the limits of four square leagues, and that such fact repels the presumption that the village of Santa Fé had any right or title to the lands within such limits.

Such was exactly the contention in the case of the city of San Francisco. The petition there alleged that there were claims of several grants made by the governor of quantities of land in the aggregate amounting to two or three times the amount of four leagues, but the circuit court in rendering its decision ignored the whole of said alleged grants and confirmed the four leagues independent of them, and in the case of Hart *vs.* Burnett, at page 548, the supreme court of that State say:

"Admitting the fact to be as stated, we do not think the inference logical. Suppose the municipal officers of the pueblo had been concluded from exercising any authority whatever over such lands and that the right to distribute or grant them had been retained by the governor in his own hands or had been conferred upon a commissioner or some other officer in no way connected with the ayuntamiento, would that fact constitute any argument against the supposition that the pueblo or its inhabitants had a vested right or interest in such lands? We think not. As will

be more particularly stated hereafter, the inhabitants of the pueblo may have had a vested right, interest, or use in such lands, and they may have been set apart and dedicated to some special object or purpose, and yet the legal title subject to such purposes and uses may have been vested for the purpose of a grant in some one else, and the trust may have been executed by the governor himself or by some other person duly appointed for that purpose. The ownership of property may be in the sovereign and the use private or public, or the ownership may be public and the use private. This depends upon the character of the ownership and dedication and the circumstances of the use. * * * If governors of California have granted lands within the general limits of pueblos, it will be presumed, unless the contrary be shown, that such grants were made in accordance with the objects and uses for which the lands have been assigned and dedicated by the laws to the pueblos."

And further they say:

"So far as we have examined grants made by the different governors within pueblo limits, they seem to have been in conformity with such general object of building up a town by encouraging settlement and cultivation and with the uses to which such lands had been dedicated."

In New Orleans *vs.* U. S., 10 Pet., 724, the Court say:

"From a careful examination of the jurisdiction exercised over this common by the governments of France and Spain and the laws which regulated this description of property in both countries the conclusion seems not authorized that it was considered as part of the public domain or crown lands which the king could sell or convey. This power was not exercised by the King of France, and the exercise of the power by the Spanish government in the instances stated was in violation of the laws of Spain and equally against its usages. The land, having been dedicated to public use, was withdrawn from commerce, and so long as it continued to be thus used could not become the property of any individual. So careful was the King of Spain to guard against the alienation of property which had been dedicated to public use that in a law all such conveyances are declared to be null and void."

The supreme court of Texas, in Lewis *vs.* San Antonio, 7 Tex., 320, quote the opinion of the court extensively in New Orleans *vs.* U. S., 10 Pet., 730, as being the law applicable to the case and give the copy of the law referred to in that case, which declares those conveyances to be null and void. It is from the Novissima Recopilacion, L. 1, B. 7, tit. 16, which is the following:

"Our pleasure and will is to preserve their rights, rents, and property to the cities and places and not to make any gift of anything of them; wherefore we command that the gift or gifts we may make of them or any part of them to any person whatsoever are not valid."

The supreme court of Texas further state:

"That the King of Spain could in right of eminent domain appropriate parts of the corporation lands for public use will not be contested. * * * We do not find from the record a single instance in which such acts had been sanctioned by the corporation; on the contrary, many instances are shown that on attempts being made by individuals to secure these lands from the government they were defeated by the assertion of the right and title of the corporation." * * *

In Hart *vs.* Burnett, 15 Cala., page 555, the court say:

"It has been doubted by some if the grants or distributions of the public lands to individuals made by the earlier Spanish laws were intended to be grants in full ownership; but we think this question was definitely settled by the law of January 4, 1813, which makes numerous provisions for distributing or granting in *suertes* the lands of the pueblos which were not required for *ejidos* or commons, and declares that in whatever mode such lands are distributed or granted it shall be in full ownership."

In the last-mentioned case the court, on page 562, say, referring to objections which have been raised against the contention that the pueblos were entitled to a grant, as follows:

"But we cannot think that this is a correct view of the law in these cases. On the contrary, we are of opinion that Spanish and Mexican towns had under the general laws such a right or title to lands within their limits as will enable and require the courts to protect them and those holding under them in the enjoyment of those lands."

The same court use the following language:

"Suppose it be admitted that pueblos had no absolute right of property in any part of the four leagues of land within their general limits, and that the legal title still remained in the Mexican government, subject only to the uses of the towns for the purposes and under the restrictions imposed by the laws and regulations; it by no means follows that upon the complete conquest and cession of California this land became a part of the public domain of the United States."

The court then calls attention to the case of New Orleans *vs.* U. S. and the conclusions reached by the Supreme Court, and say:

"If such a rule was applicable to the lands of this quay so held, *a fortiori*, must it apply to the pueblo lands of San Francisco, which, as already shown, were held by that pueblo by much stronger right or title," citing in connection therewith Lewis *vs.* San Antonio, 7 Tex., 288.

In Townsend *vs.* Greeley, 5 Wall., 326, it is held that—

"The treaty of Guadalupe Hidalgo between the United States and Mexico does not divest the pueblo existing at the site of the city of San Francisco of any right or property or alter the character of the interest it may have held in any lands under the former government. It makes no distinction in the protection it provides between the property of individuals and the property held by towns under the Mexican government."

The same principle is enunciated in San Francisco *vs.* Le Roy, 138 U. S., 671. This certainly meets the contention of the appellant that lands wherein the legal title may

have been vested in the Mexican government or Spanish government subject to a specific trust became the sole property of the United States after the cession from Mexico. According to these decisions nothing was either gained or lost by an individual or a corporation. If the Government held the bare legal title subject to an absolute and unconditional and perpetual usufruct, then the use constituted the real property and was protected by the treaty. It can hardly be contended that under these laws of Spain which have been cited the towns did not have a title of some kind and particularly of a kind which gave the entire control of the property to the town for its uses and the purposes of the town and its inhabitants. It will not be contended that the lands of any town embraced within four square leagues, which were not allotted upon the formation of the town, could not be allotted afterwards by the same authorities which made the first allotment or by the town council. On the contrary, it was the policy of the Spanish government to confer sufficient lands upon its towns to encourage their growth, protect them in their pasturage and other necessary use, and to enable them to invite people to join with them and furnish them the means to build houses and for opening farms to cultivation.

In addition to the contention made by appellant that the various grants which are set up raised the presumption that the land was not recognized by the Spanish authority as belonging to the village of Santa Fé, it is contended also that because the governor at one time, about 1715, donated a cienega or swamp to the city government that that was a recognition that that land had never belonged to the city. It must be remembered that as a matter of history the Spaniards were driven out of Santa Fé in 1680 and remained away more than twenty years; that when New Mexico was reconquered by de Vargas he brought with him but a small community, and it may be possible that in establishing the city of Santa Fé in this first instance some reservation may have been made of that cienega

or swamp. There is nothing in the law which required every inch of land lying within one league of a given center to be given to the corporation. The governor had the power of making grants. It might have been in this case that he made his grant to the city of Santa Fé and reserved this swamp. It might have been that, as a military post had to be kept at Santa Fé and various government establishments also, this land had been set apart by the cabildo for the use of the royal government. There are many explanations which can be made of that grant by the governor entirely inconsistent with the idea that all of the land at the site of Santa Fé remained absolutely royal domain, and that the city had no interest in it. Knowing, as we do, as a matter of law and of fact in history, that every incorporated town or village in New Spain took its grant and used it, it is unreasonable to suppose that Santa Fé, the capital of the province, did not allow itself to be invested with property conferred upon it by operation of law. This is especially obvious since the property belonged to it without any affirmative act beyond that of organizing as a village or city with a council and alcalde and other requisite officers. It may be, further, that the governor of New Mexico, who was always arbitrary in his power, had assumed to control this cienega, and that the town council had requested him to confer the same upon them without a knowledge of their rights and in ignorance that the same belonged to the town council. This is a presumption which will be indulged in, and has been indulged in in Lewis *vs.* San Antonio, 7 Tex., 318. That was a case where a grant of six leagues had been made to San Antonio. Afterwards the congress of Coahuila and Texas granted by decree two leagues of land to the town, which the town authorities accepted as being the grant to the town; and, the same being within the limits of the said original six leagues, it was contended that the grant of two leagues made by the congress and the acceptance of it by the town of San Antonio precluded the

idea or contention that there was any greater grant than two leagues, and that by the grant of two leagues and the acceptance of the same as public land—that that was an acknowledgment that all other land at the time was public land. The supreme court of Texas in that case, at page 313, dispose of this case as follows:

"But had the record shown that the action of the town council was as alleged by the appellants it could not have prejudiced the rights of the city, nor could it have given a right to the appellants, because the council had no authority to make such an adoption to the prejudice of the corporation, and the presumption would have been that it had been done in ignorance of their rights. In the case of New Orleans *vs.* U. S. it was contended that the official acts of the Federal Government, by legislation and otherwise, respecting the common claimed by the city, and some of which were induced by the special application of the corporation, afforded strong evidence, not only of the right of the United States to the property in question, but that such right was fully recognized by the corporation. Judge McLane, in answering this point, made by the counsel of the United States, says: 'It must be admitted that several of these acts are unequivocal in their character and do show, as contended by the Attorney General, an admission on the part of the city not only that the Congress had a right to legislate on this subject, but also to dispose of certain parts of the common in fee, and these acts, if unexplained, do strengthen the argument against the claim set up by the city. It is a principle sanctioned as well by law as by the immutable principles of justice that wherever an individual acts in ignorance of his rights he shall not be prejudiced by such acts, and this rule applies at least with as much force to the acts of corporate bodies as those of individuals.' After giving reasons from which it might be inferred that the city was ignorant of her rights he proceeded: 'But in addition to the consideration that the city authorities probably acted in ignorance of their rights it may be safely assumed that they had not the power, by the acts referred to, to divest the city of a vested interest in this common.'

"It is said that it does appear that the governors granted

our lots to settlers totally inconsistent with the right now set up by the city. The evidence shows that a few small lots had been granted to individuals, but it does not clearly show by whom or on what occasion they were granted. In the case cited of New Orleans *vs.* The U. S. several similar grants were said to have been made by the governor inconsistent with the rights of the city." * * *

On page 320 the court say:

"The few inconsiderable interferences of the governor with the lands claimed by the corporation amount to nothing when compared with such acts of interference by the Spanish government and the United States with the common of the city of New Orleans, and yet it was held by the Supreme Court of the United States that such acts did not and could not prejudice the rights of the city to the common."

As an answer to the contention of the appellant, as intimated in his brief, that it was not the policy of the Government to grant away so much land the supreme court of Texas, in the case last cited, at page 321, fully meet that proposition as follows:

"It has been said that it is not reasonable to suppose the government of Spain ever intended to grant so much land by perfect title to the corporation, and that a grant for more than four leagues is repugnant to the laws of the Indies. The counsel have not directed our attention to the particular law of the Indies restraining such grants, and a reference to the whole body of the common law or to all the reported cases would have been just as profitable. The policy of the King of Spain was to have his towns and villages founded with extensive *ejidos* for pasturage and other purpose, and if he only granted or dedicated to the use of the town it would be such an appropriation, as we have seen, as would have removed it from commerce and individual appropriation. It appears to us that San Antonio would be likely to receive most liberal and extensive privileges, as one of the witnesses testified that it was regarded as the mother city."

That last statement can be well applied to Santa Fé. At the time it was settled it was made the capital of the province. The nearest other settlement was that of Paso del Norte, distant nearly three hundred and fifty miles. It was intended as the capital of a new province, and certainly as a "mother city."

Appellants have introduced the order of Nava, commandant, in regard to the settlement of Socorro. This order was intended to be no more than a compliance with the laws of the Indies on that subject. It will be seen that its provisions are almost exactly those of Book four, title five, of the laws of the Indies regulating the settlement of towns. It is very easy to see why that order was issued. The laws of the Indies were always printed and published in folio form, bulky and inconvenient. The people who went to settle a new town or district were not supposed to understand or know these laws, nor had they the means of obtaining them. Generally there was not more than one copy in a whole province. Without doubt it was deemed necessary and convenient that the law applicable to the particular case should be condensed, made plain, and specific, so that it could be readily carried along and taken care of, as well as more easily understood and communicated by and to those interested. The mere fact that a departmental commander issued an order declaratory of the law as it then stood for the use of a particular locality can certainly have no bearing on the rights of the city of Santa Fé when those rights have been acquired at least one hundred years prior to the issuance of that order.

The appellant contends that the city of Santa Fé as at present organized is incapable of taking as the successor of the village of Santa Fé. There is no doubt that the village of Santa Fé existed as such under the Spanish and Mexican governments, and had a complete municipal organization dating back at least to the year 1700. After the American occupation the village organization somewhat

fell into disuse, but it is a principle of law that a municipal corporation does not lose its existence or any of its rights or privileges by reason of non-user. A successor may take its place by another name and under a different charter. That successor will possess all of its rights and succeed to all of its liabilities, just as was done in the case of San Francisco, which succeeded the pueblo Yerba Buena. The authorities all show that San Francisco succeeded a pueblo and took all of its rights in lands and otherwise without there being a single declaration to that effect by the charter given by the legislature of the State of California.

Section 1692 of the Compiled Laws of New Mexico provides:

"Any city or town incorporated by special charter or in any other manner than that provided by this act may abandon its organization and organize itself under the provisions of this act, with the same territoral limits, by pursuing the course herein prescribed."

The city of Santa Fé was organized with substantially the same territorial limits, possibly a little less, than the old village. They were unable to follow exactly the act, but they followed the laws of the Territory as closely as possible. It was organized into a city; has taken control of all of the public property, public plaza, streets, and alleys, and outlying lands unoccupied by private individuals, and like the city of San Francisco has put in its claim for the confirmation to it of the pueblo grant for the benefit of its citizens and those holding title in the limits of the grant. It is contended that something should show more definitely that the city of Santa Fé is the direct successor of the village of Santa Fé. It is certainly *de facto*, and we think fully as certain *de jure*, the successor of the village as anything can be.

Appellee contends that there is no essential requirement that the old corporation should in any particular way or

in any particular manner, together with all of its property, be merged into or assigned to the new corporation. This point has been fully disposed of in the case of Broughton *vs.* Pensacola, 93 U. S., 267, a decision rendered by Associate Justice Field. Pensacola prior to 1868 was an incorporated city. The constitution of Florida in 1868 required the legislature to establish a uniform system of county, township, and municipal government. The legislature thereupon passed an act to provide for the incorporation of cities and towns and to establish a system of municipal government in the State. The court, page 268, say:

"These acts authorize the establishment of a municipal government, with corporate powers and privileges, by the voluntary action of the male inhabitants of any hamlet, village, or town in the State not less than 100 in number, and also provided for the reorganization of existing corporations under their provisions. Under these acts the charter of the city was surrendered and attempts were made to reorganize its government, but these attempts failed because the reorganization was not made within the period prescribed. In consequence of such failure, and because the acts provided for the cessation of corporate authority in case the reorganization was not effected within the periods designated, the citizens residing within the limits of the city proceeded to establish a municipal government, with corporate authority, under the act of 1869, as citizens not having any existing corporation were authorized to do. Such establishment or reorganization of government having been effected, the plaintiff applied to its officers for the payment of the coupons held by him, but the payment was refused, they insisting that they were officers of a new and distinct corporation from the one which issued the bonds and coupons mentioned, and that the present corporation was not responsible for them." * * *

On page 269 the court further says:

"It is sufficient here, in our judgment, there was a continuation of the corporation of Pensacola, with its original rights of property and obligations, not a new and distinct creation of corporate capacity and liability."

In the case of Santa Fé the organization was made to comply as near as possible with the reorganization required and with the reorganization permitted to be made under the general statutes. The city of Santa Fé assumed control and is now controlling all of the property of the old city and exercising all of its powers and rights. It certainly has the right, by virtue of its representative capacity in controlling the streets, public plaza, public buildings, and town lands, to make this application for the confirmation of the grant. It does not have to show that it is the sole or entire owner. All it has to do is to connect itself with the whole or any part or portion of the entire property. It does this as the continual successor of the old corporation, and it does it as the authority absolutely in charge of all of the property within the limits of the city of Santa Fé belonging to the municipality, as the controller and manager of the streets, highways, commons, and public buildings belonging to and lying within the said corporation. These are part of the public domain and are sufficient title alone to have the city of Santa Fé represent the grant donated to the original corporation for the use and benefit of the inhabitants—the same inhabitants who are now represented in the same capacity by the present municipality.

Appellees therefore respectfully submit that the decision of the court below should be affirmed.

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